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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA NO.127/97

Date of Decision: 13.2.1997

BETWEEN:

G. Krishna

.. Applicant

AND

1. Senior Divisional Commercial Manager,
South Central Railway, Vijayawada

2. General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.

3. Chief Ticket Inspector,
South Central Railway,
General, Vijayawada.

.. Respondents

Counsel for the applicant: Mr. G.V. Subba Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI: VICE CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN: MEMBER (ADMN.)

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JUDGEMENT

(PER HON'BLE MR. JUSTICE M.G. CHAUDHARI: VICE CHAIRMAN)

Mr. G.V. Subba Rao learned counsel for the applicant.
Mr. W. Satyanarayana for N.R. Devaraj Sr. SGSC.

Reply filed by Mr. Satyanarayana taken on record.

An order of suspension is appealable to the appellate authority under Rule 18 of the Railway Servants (D&A) Rules 1968. The Respondents have raised an objection to the maintainability of the OA stating that the applicant has not filed any ^{appeal} ~~reply~~ against the impugned order. The applicant has stated in the OA that he had filed a representation on 1.6.1996 and as that was not disposed of for 6 months he had approached the Tribunal on 4.2.1997. The respondents have denied having received the representation ^{been} ~~stated~~ to have filed on 1.6.1996. Assuming for the sake of argument that such a representation was filed that was not to the appellate authority who is stated to be DRM. That was addressed to the Sr. Divisional Commercial Manager. That cannot be considered as appeal contemplated under Rule 18. Not only that but the applicant himself filed another representation to the Sr. Divisional Commercial Manager, Vijaywada on 4.12.1996. That fact is not disclosed in the OA. Today Mr. Subba Rao produces an order Dt.5/6.2.97 passed by the Sr. Divisional Commercial Manager rejecting his representation Dt.4.12.1996 for revocation of the suspension on the ground that a criminal ^{offence} ~~appeal~~ ^{against} on him is under investigation as already informed. That representation also cannot be treated as an appeal. Since the applicant has not exhausted statutory remedies available to him on the date of filing of the OA the OA cannot be entertained. If the learned counsel for the applicant

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^{hopes}
~~desires~~ to contend that the order Dt.5/6.2.1997 amounts to exhausting the remedies provided under the ^{Rule-Rules} rules that order cannot relate back to the date 1.6.96. ^{afford an} That would ~~equat~~ ^{afford an} independent ^{cause of action} ~~account~~ and independent remedies would be required to be adopted to challenge the same. We hasten to add that we do not express any opinion as to whether the representation dated 4.12.1996 can be treated as an appeal for the purpose of Rule 18 of the RS (D&A) Rules 1968, ^{If such} ~~as such~~ a question ^{would} ~~It~~ arises in regard to maintainability of any OA filed against order Dt.5/6-2-1997 ^{that} is left ~~to be~~ opened to be considered at that stage.

The respondents have given circumstances from which it appears that the applicant has been suspended in connection with a criminal offence and not a disciplinary proceeding and that the investigation is being carried ^{on} ~~out~~ by the CBI and is under ^{progress} ~~advance~~. It also reveals that the record has been ^{seized} ~~seized~~ by the CBI. The learned counsel for the applicant referred to the guidelines issued in this connection by the Railway Board ^{and submitted that contrary} ~~However~~ according to the said guidelines the investigation is being delayed beyond the period indicated ^{that that} and ^{that} calls for a second look at the order of suspension and the circumstances of continued suspension. ^{however} ~~The~~ applicant has to approach the appellate authority on that ground. Since the applicant has not availed such a remedy all that we can say is, it ^{will be} is open to him to approach the competent authorities and ^{raise} ~~retain~~ this ground ^{notwithstanding} ~~other~~ than the rejection ^{of} ~~the instant~~ of OA which is not on merits but on the ground of maintainability, ~~will~~ ~~persuade him from the choice being so.~~

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Consequently we hold that the OA is not maintainable because of non-compliance with Section 20 of the AT Act and cannot be entertained. The OA is Accordingly rejected ^{observations herein} subject to ~~whatever~~ has been discussed and observed herein above.

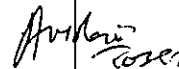


(R. RANGARAJAN)
MEMBER (ADMN.)



(M.G. CHAUDHARI)
VICE CHAIRMAN

Dated: 13th February, 1997.



DY.REGISTRAR (JUDL)

Dictated in the open court.

KSM

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OA.No.127/97.

Copy to:-

1. Senior Divisional Commercial Manager,
South Central Railway, Vijayawada.
2. General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
3. Chief Ticket Inspector, South Central
Railway General, Vijayawada.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT, Hyd.
5. One copy to Mr.N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to ^{DR(A)}~~Secretary~~, CAT, Hyd.
7. One spare copy.

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13/3/97

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 13-2-1997

~~ORDER~~ JUDGMENT

~~M.A./R.A/C.A. No.~~

O.A. No.

T.A. No.

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

~~Ordered/Rejected.~~

to order as to costs.

pvm.

