

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 1397/97

DATE OF ORDER : 20-10-1997.

Between :-

K.Narayana Rao

... Applicant

And

1. Union of India rep. by its
General Manager, SE Rlys,
Calcutta-43.
2. Divisional Operations Manager,
SE Rlys, Visakhapatnam.
3. Asst. Operating Superintendent,
SE Rlys, Visakhapatnam.
4. Divisional Railway Manager,
SE Rlys, Visakhapatnam.

... Respondents

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Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents: Shri N.R.Devaraj, Sr.CGSC

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CORAM:


THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri Durga Rao for Sri P.B.Vijay Kumar, counsel for the applicant and Sri N.R.Devaraj, standing counsel for the respondents.

2. We have considered both the MA and OASR. The applicant was issued with a charge sheet for the following :-

"That the said Sri K.Narayana Rao, LM 'A'/VAM while working as such on 18-1-92 at VZM station had failed to place the lever collars on to the relevant levers for line No.7 which was already locked and pulled the levers for reception of Dn.JCW Special to line No.7 which resulted in Dn.JCW special had entered on to line No.7 and collided with the locomotive which was berthed on line No.7 and led to the derailment. Sri K.Narayana Rao, LM 'A'/VZM had failed to observe rule No.GR3.38, Sr. 3.51.06 (a) SR 5.04.01 & SWR 6.2.3 thereby committed an act of misconduct in violation of rule 3(1)(ii) RS (conduct Rules, 1966."

An enquiry was conducted and on the basis of the Enquiry Report, the applicant was awarded the penalty of reduction to the post of TPM 'B'

in scale Rs.800-1150 (RPS) at pay of Rs.1130/- with effect from the date of receipt of that order till the date of retirement on superannuation i.e. on 31-12-93 by order dt.18-11-93 (Annexure A-I page-7 to the OA).

3. This OA is filed for setting aside the impugned order dt.18-11-93 by Respondent No.2 by declaring it illegal, arbitrary and without jurisdiction and direct extension of all consequential and attendant benefits, which the applicant was deprived on account of the impugned order.

4. When the MA was taken up for hearing, we have asked the learned counsel for the applicant in regard to the facts of the case. The facts

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as narrated above was submitted once again by the applicant's counsel.

When we questioned him whether he has submitted any appeal to the appellate authority, the applicant brought to our notice the facts mentioned in page-5 of the O.A. It is stated in page-5 that he had filed a representation/appeal to Sr.Divisional Operations Manager on 22.11.93, to DRM on 22.3.94 and the same ^{are} ~~is~~ yet to be disposed of.

5. The learned counsel for the respondents ~~has~~ brought to our notice that the appeal was treated as mercy appeal and was disposed of by Sr.Divisional Operations Manager (Safety) by order No.WTA/2/31/92 dt.7-12-93. As per this order it is seen that the Sr.Divisional Operating Manager, Waltair, disposed of appeal as under :-

"No justification/regret"

In view of the fact that it has been issued on 7-12-93, the applicant should have approached this Tribunal much earlier and hence the MA for condonation of delay cannot be disposed of allowing the MA, submits the learned standing counsel for the respondents.

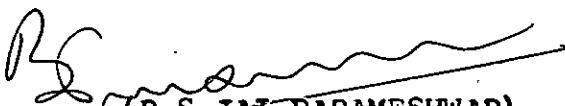
6. The reply dt.7-12-93 is very cryptic. It does not state why the case of the applicant cannot be considered on his appeal. No details for rejecting the appeal ^{have} ~~has~~ been given. Hence it has to be held that the reply is not transparent. Hence we cannot take that reply as an ^{appropriate} ~~correct~~ one for the appeal submitted by the applicant. Hence the Sr. Divisional Operations Manager should reconsider the appeal of the applicant dt.22.11.93 and pass a speaking order, suitably.


7. It is not understood why the applicant waited from 7-12-93 till 4-9-97 to file the OA. It is also to be held that the applicant is also responsible for the delay.

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8. From what is stated above, both sides are responsible in this case. The respondents are responsible for not giving proper reply and the applicant for not approaching the Tribunal in time. Hence equitable orders has to be passed in this OA. In view of what is stated above, the MA is allowed subject to the condition given in the OA. The OA is disposed of with the direction to the respondents to re-consider the appeal of the applicant dt.22-11-93 in accordance with the law and pass a speaking order. The Appellate Authority is at liberty to fix the arrears if any, taking due note of the ~~appeal~~ delay in approaching this Tribunal. A detailed order in regard to the consequential benefits awarded to him if he succeeds in the appeal is also to be indicated in the speaking order.

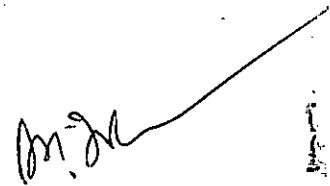
9. With the above direction, both the MA and OA ^{are} disposed of at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)
20.10.97


(R. RANGARAJAN)
Member (A)

Dated: 20th October, 1997.
Dictated in Open Court.

avl/


D.R.

OA.1397/97

1. The General Manager, South Eastern Railway, Calcutta.
2. The Divisional Operations Manager, South Eastern Railway, Visakhapatnam.
3. The Assistant Operating Superintendent, South Eastern Railway, Visakhapatnam.
4. The Divisional Railway Manager, South Eastern Railway, Visakhapatnam.
5. One copy to Mr. P.B. Vijay Kumar, Advocate, CAT., Hyd.
6. One copy to Mr. N.R. Devaraj, Sr. CGSC., ~~GAO~~, Hyd.
7. One copy to D.R. (A), CAT., Hyd.
8. One duplicate copy.

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6/11/97
TYPED BY
COMPARED BY

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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 20-10-97

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in

O.A.NO. 1397 / 97

Admitted and Interim Directions
Issued.

Allowed
MA & OA

Disposed of with Directions

Dismissed
Dismissed as withdrawn
Dismissed for Default
Ordered/Rejected
No order as to costs.

YLKR

II Court

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेच/DESPATCH
- 3 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH
No 20