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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.587/99.

Date of Order: 15-7-1999.

BETWEEN :

A.S. Murthy, s/o Swami Naidu,
aged 50 years,
R/o 5th lane Srinagar Colony,
Satyanarayanaapuram,
Vijayawada.

.. APPLICANT

A N D

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

2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.

.. RESPONDENTS

Counsel for Applicant : Mr. K.S. Murthy

Counsel for Respondents : Mr. N.R. Devaraj, SC.

CORAM :

THE HONOURABLE MR. JUSTICE D.H. NASIR, VICE-CHAIRMAN

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)

O R D E R.

Justice D.H. Nasir, VC :

1. The short question before us in this O.A. is whether the suspension of the applicant is required to be lifted on the ground that the applicant was acquitted of all the charges levelled against him in Criminal Case No.1/97 passed on 30th November, 1998 by the Special Judge for C.B.I. Cases at Visakhapatnam. The applicant was alleged to have committed the offences punishable under Sections 403, 465 and 471 I.P.C. as well as under Section 13(1)(d)(ii) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. The applicant joined the railways in 1958 as Assistant Station Master. In 1980 he was medically

declassified on the ground that he lacked binocular vision. He was thereafter asked to join the Commercial department and was assigned the job of Ticket Collector and later he was promoted as Train Ticket Examiner (TTE) and then as HTTE. on 23.2.1996 he was placed under suspension. However, till January, 1997 no charge sheet was served upon him and no disciplinary proceedings were initiated. The applicant approached this Tribunal earlier by filing OA No.71/97 challenging the action of the respondents in continuing him under suspension in which the respondent was directed either to supply the charge sheet or to take back the applicant on duty within 45 days.

3. There is no dispute about the fact that the applicant was acquitted from the aforesaid offences by Special Judge for C.B.I. Cases, Visakhapatnam. In paragraph-27 of the judgment it is observed that there was no direct evidence to show that the accused issued the fake EFTs or to show that he had collected ^{any} amount under the same. There was also no evidence to show that any person used the said EFTs. None of the witnesses examined in the case saw the accused writing or preparing the said tickets. Moreover, P.W.16 except stating that the fake EFTs were in the handwriting of the accused, ~~he~~ did not say that the accused was on duty on 24.1.95 and he actually saw him issuing the EFTs and therefore, there was no independent corroboration. ^{to the evidence of P.W.22 the Handwriting Expert to give any credence to his opinion of evidence.}

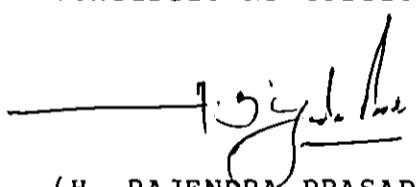
4. There can be no two opinions about the fact that the suspension is required to be immediately lifted when the applicant was acquitted of the charges levelled against him more particularly in view of the fact that no appeal was preferred against the judgment of the Special Judge for CBI case.

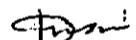
5. Learned counsel Mr. Devaraj for the respondents submitted that the departmental enquiries were contemplated to be initiated against the applicant forthwith and for that purpose, the charge sheet was also prepared which would be served upon the applicant within the next couple of days. However, since the proposed proceedings have still not been initiated, it becomes necessary to direct the suspension to be immediately lifted.

6. We are supported in taking this view by the decision of the Full Bench of the High Court of A.P. in the case of APSRTC v. LABOUR COURT (AIR 1980 AP 132). The Full Bench held in that case that where an employee had been found in a regular trial, not to be guilty of any crime or other misconduct, it will be wholly unreasonable to hold that the employee should still suffer the loss of remuneration and other benefits for the period of his suspension which merges in his order of acquittal. It is further observed that this amounted to sanctioning and awarding punishment to an innocent party. It is also observed that the order of suspension automatically ceased to be operative upon passing of a final order of acquittal in criminal proceedings, and that the fact of such merger would clearly revive the temporarily suspended rights of the employee to get a full remuneration for the period of his suspension. The above decision of the Full Bench of the Hon'ble High Court of Andhra Pradesh squarely applies to the facts of this case and therefore, it would not be in order and would also not be just and proper to allow the applicant to be continued under suspension even after acquittal in the criminal case. The respondents, however, shall not be precluded from taking suitable action

including suspension if it is so found necessary on initiation of disciplinary proceedings for similar charges. This observation, however, shall not be treated as granting liberty to the respondents to place the applicant under suspension immediately on initiation of departmental proceedings. The respondents shall consider the question on its own merits whether it is necessary to place the applicant under suspension after initiation of departmental proceedings. In any case, the present suspension is required to be immediately lifted on account of the applicant's acquittal from the charges levelled against him in C.C.No.1/97.

7. In the result, therefore, the O.A. is allowed and the respondents are directed to lift the suspension order against the applicant forthwith with all consequential benefits. No costs.


 (H. RAJENDRA PRASAD)
 MEMBER(ADMN.)


 (D.H. NASIR)
 VICE-CHAIRMAN

DATED THE 15th DAY OF JULY, 1999.

DJ/

Printable copy
1st AND 2nd COURT.

COPY TO -

1. HODHND

2. HHRP M(A)

3. HCRP M(J)

4. D.R. (A)

5. SPARE ✓

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

30/7/99

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD:

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

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

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

THE HON'BLE MR. S. JAI PARAMESHWAR
MEMBER (JUDL)

ORDER: Date. 15/7/99

ORDER / JUDGMENT

MA. / RA. / CP. NO

IN

DA. NO. 587199

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
प्रेषण / DESPATCH

28 JUL 1999

हैदराबाद न्यायालय
HYDERABAD BENCH