

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:HYDERABAD

O.A.No.738 of 1999.

DATE OF ORDER:17-4-2000.

Between:

R.Somasekhara Rao.

...Applicant

a n d

1. The Chief Personnel Officer,  
Headquarters, S.C.Railways, Secunderabad.
2. The Divisional Railway Manager, Guntakal.
3. The Sr.Divisional Personnel Officer,  
S.C.Railway, Guntakal.
4. The Sr.Divisional Commercial Manager,  
Commercial Branch, S.C.Railways, Guntakal.
5. The Divisional Commercial Manager,  
Commercial Branch, S.C.Railway, Guntakal.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.Krishna Devan

COUNSEL FOR THE RESPONDENTS : Mr.V.Rajeshwar Rao

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

: O R D E R :

(PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.Krishna Devan, learned Counsel for the  
Applicant and Mr.V.Rajeshwar Rao, learned Standing Counsel  
for the Respondents.

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2. The applicant in this OA while working as TTE, Guntakal, was transferred to Vijayawada in the same grade as TTE after revoking his suspension by the impugned Order No.P(C)676/TAG/RSR/99/26, dated 2-2-1999, (Annexure.1, page 8 to the OA). Earlier the applicant was kept under suspension as a disciplinary proceeding was pending against him.

3. This OA is filed to set aside the impugned Order No.B(C)676/RAG/RSR/99/26, dated 2-2-1999 passed by the Respondent No.1, and for a consequential direction to the respondents to continue the applicant as TC, Guntakal, without any interference.

4. An Interim Order was passed in this OA on 12-5-1999, whereby it was ordered that "in case the applicant is still working at Guntakal, he shall not be compelled to carry out the transfer order No.P(C)676/TAG/RSR/99/26, dated 2-2-1999."

5. The impugned Order dated 2-2-1999 indicates that the transfer order was issued on administrative grounds.

6. We enquired from the learned Counsel for the Respondents as to reasons for transferring him on administrative ground. The learned Counsel for the Respondents submitted that a vigilance case is initiated by the CBI and that a Charge Sheet has also been issued for the misconduct and the same is pending against him, and in order to avoid any interference by the applicant, the applicant was ordered to be transferred as TTE, Vijayawada from Guntakal.

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7. A transfer on administrative ground need not be interfered with. But if a transfer is ordered as a punitive one, then a Court or Tribunal has got powers to interfere with such transfer orders on the basis of the facts of the ~~the~~ case.

8. Hence, the only point to be considered in this OA is whether the impugned transfer order dated 2-2-1999 is a punitive one or not.

9. The applicant no doubt was under cloud. He was kept under suspension, but that suspension was revoked. It is not understood as to why the suspension was revoked if there is a potential for the applicant to interfere with the disciplinary proceedings. It may be argued that even if he is kept under suspension, the applicant may interfere with the records. We feel that such a view point is far remote. The files are with the respondent-authorities. Hence, interfering with the files may not be possible. If it is interfered by the applicant, then the respondents are also responsible for allowing the applicant to interfere with the files under their custody. The second point that may arise is that the applicant may influence the witnesses. We do not think it is <sup>not</sup> ~~not~~ possible. It is possible. But the Enquiry Officer who is going to enquire into this case, if he is going to be influenced by the applicant, then the Enquiry Officer is also responsible for disposal of his case arbitrarily. We do not think that a responsible Government official is prone to be influenced by an employee who is under suspension. Hence, the second alternate, in our opinion, does not appear to be reasonable.

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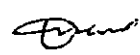
10. In view of the above, we are of the opinion that ~~termining~~ <sup>transfer</sup> this impugned Order dated 2-2-1999 may not be on administrative grounds. But may be termed as a punitive one. Under such circumstances, the impugned Order is liable to be set aside. However, the respondents are at liberty to continue the applicant in suspension, if so advised, in accordance with the rules. At the same/<sup>time,</sup> we also advise the applicant to be more careful in attending the enquiry without giving room for any complaints from the respondents in finalising the enquiry in accordance with the rules.

11. In view of what is stated above, the impugned Order No.P(C)676/TAG/RSR/99/26, dated 2-2-1999 is hereby set aside, and the applicant should be continued in Guntakal Division either as a TC or in the same grade as TTE.

The observations as above should be followed in this case, if required, by both the respondents as well as the applicant.

12. With the above directions, the OA is disposed of.  
No costs.

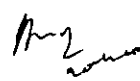
  
( R.RANGARAJAN )  
MEMBER(A)

  
( D.H.NASIR )  
VICE CHAIRMAN

DATED: this the 17th day of April, 2000  
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Dictated in the Open Court

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DSN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD

1ST AND 2ND COURT

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

COPY TO:

1. HON'BLE MR. JUSTICE D.H. NASIR
2. HON'BLE MR. R. RANGARAJAN
3. HON'BLE MR. B.S. JAI PARAMESHWAR
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

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

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

DATE OF ORDER

17/4/00

MA/RA/CP.NO.

IN

CA. NO.

138/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER REJECTED

NO ORDER AS TO COSTS

9 copies

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal हैदराबाद बेंच HYDERABAD BENCH
2 MAY 2000 Despatch. My RECEIVED
जब विभाग/ऑफिस से