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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1127 of 1999

DATE OF JUDGMENT: 6th JUNE, 2000

BETWEEN:

V.V.HUVINAVAR

.. APPLICANT

AND

1. The Sr. Divisional Operations Manager,
South Central Railway, Hubli,
2. The Divisional Railway Manager,
S.C.Railway, Hubli,
3. The Chief Operations Manager,
S.C.Railway,
Secunderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.J.M.NAIDU

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWAR RAO, CGSC

CORAM:

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

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

JUDGEMENT

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.J.M.Naidu, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant while working as Deputy Station Superintendent, BDM, was issued with a major penalty charge sheet for the following charges:-

"1. That the delinquent employee has deserted duty post entrusting his duties to the off duty SM, while

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working as DY.SS/BDM on 12.11.95
between 6.30 to 18.30 hours.

2. Has failed to sign the entries
pertaining to Train Nos.231 and 240
Passenger trains in the Train
Signalling Register.

3. He has found to be intoxicated
under the influence of Alcohol while
on duty. He also refused to give
Blood and Urine for the Lab. Test
when asked by DMB/UBL, during a check
conducted by DSO/UBL on the above
date.

4. He was not wearing any uniform
while on duty."

An inquiry was conducted. The Inquiry report was given to
the applicant and on the basis of the report, he was
punished by the impugned order NO.H/T.305/BDM/Drunkness/95,
dated 11.5.98 (Annexure-I at page 7 to the OA) compulsorily
retiring him from service with immediate effect. The
applicant is reported to have submitted an appeal on
14.7.98, though the appeal has not been enclosed.. That
appeal was considered and rejected by the impugned order
NO.H/P.94/III/98, dated 7.8.98 (Annexure-III at page.20 to
the OA). Thereafter he filed a revision petition which was
disposed of under Rule 25 of the Railway Servants
(Discipline & Appeal) Rules, 1968, by the order

No.P.94/UBL/VVH/3/99, dated 19.4.99 (Annexure-IV at page.22 to the OA) confirming the penalty.

3. This OA is filed to set-aside the penalty orders dated 11.5.98, 7.8.98 and 19.4.99 and for consequential direction to the respondents to reinstate him into service with all consequential benefits including back wages, seniority, promotion etc.

4. The applicant mainly contends that one Mr.Shivakumar who was relieving ASM took over the charge from him and he performed the duty. His statement denying that was recorded in his back and that was viewed against him to award punishment. Hence the whole inquiry is false one and on that basis the punishment should be set-aside.

5. We would have gladly accepted the contention of the applicant if he has proved that he was relieved of his duties permitting Shivakumar to take over charge from him to discharge his duties as he was not well and he was to go to the doctor. To prove that, he should have shown some tangible proof by way of recording in the station diary and control message permitting him to hand over the duty to Mr.Shivakumar. But the applicant submits that he has no such evidence available with him. He only states that Mr.Shivakumar attended two trains viz Train Nos.231 and 240 and that itself proves that he handed over his duty to Mr.Shivakumar. The above submission shows that the applicant has handed over the safety working duty to a person who is not authorised to work. The safety working of the station is very essential to ensure public safety

travelling in the trains. Even if Mr. Shivakumar had come forward to take over the charge of his duties for passing of trains, the applicant has no right to hand over the same unless he gets proper permission from the competent authority. In the absence of any permission from the proper authority, the applicant has no right to hand over his duties to others. In case the applicant falls sick during the course of his duty, the effect will be that the whole train passage will be hampered and trains will be brought to stand still. In that event, they will ^{be} take note of ~~it and pass~~ ^{by ~~sent~~ and would have passed} such orders which are necessary to meet the situation. No such orders have been brought to our notice. In view of what is stated above, we do not find any irregularity committed by the inquiry officer in not inquiring Mr. Shivakumar during the course of the inquiry. It was rejected by the inquiry officer, in our opinion, for valid reasons.

6. The applicant tries to convince us by saying that he has been transferred to the other Department due to the medical decategorisation and because of that the punishment is irregular. The incident for which he was charge sheeted took place earlier to the date when he was medically decategorised. His medical decategorisation after that date will not come to the help of the applicant to contend that the charge sheet should be set-aside and he should be reinstated into service.

7. No other valid contentions have been made.


8. We have studied the disciplinary authority's order dated 11.5.98. The disciplinary authority has

examined each and every point in regard to the case and passed an order which is well made out and contains all the points mentioned in the OA. Further, the appellate authority though could have passed a better speaking order, that will not enable us to set-aside this order as the disciplinary authority has already answered all the points. Thus the appellate order is only a repetition of the order of the disciplinary authority. Hence in the present circumstances, we do not find any error in the issue of the appellate order dated 7.8.98. The points mentioned by the applicant have also been looked into by the reviewing authority who reviewed the orders under Rule 25 of the Railway Servants (Discipline & Appeal) Rules, 1968 and passed the order which, in our opinion, is not defective.

8. In view of what is stated above, we find no reason to set-aside the punishment order. Hence the OA is dismissed as having no merits. No order as to costs.




(R.RANGARAJAN)
MEMBER (ADMN.)



(D.H.NASIR.J)
VICE CHAIRMAN

DATED: 6th JUNE, 2000
Dictated in the open court



vsn

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

COPY TO:

1. HDHND
2. HRRN (ADMN) MEMBER
3. HBSJP (JUDL) MEMBER
4. D.R. (ADMN) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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 6/6/00

MA/RA/CP.NO.

IN

DA.NO: 1127/99

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

(2 copies)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH 19 JUN 2000 हैदराबाद न्यायपीठ HYDERABAD BENCH
