

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
HYDERABAD BENCH AT HYDERABAD

OA.NO.1128/1999

Date of Order : 07-8-2000

Between:

Mutyala Shankaraiah.
...Applicant

And

1. The General Manager,
South Central Railway,
Secunderabad.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
3. Divisional Electrical Engineer,
Tr.D/BZA, Vijayawada Division,
Vijayawada.
4. The Asst. Electrical Engineer,
Tr.D. Tuni, South Central Railway,
Tuni, East Godavari District.

..Respondents

Counsel for the Applicant - Mr. A.V. Rama Rao, Advocate.

Counsel for the Respondents - Mr. D.F. Paul, SC for Railways.

CORAM:

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

ORDER

Heard Mr. A.V. Rama Rao learned counsel for the applicant and
Mr. D.F. Paul, learned standing counsel for the respondents.

2. The applicant while working as Lineman Grade-I at Ankapalli was issued
with a minor penalty charge memo dt. 2.2.98. The charge memo was

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issued in standard form No.11. The misconduct alleged against the applicant reads as follows:-

- I. He has been instructed by AEE/Trd/Tuni at REG/SP on 18.3.98 to adjust a clearance at LOC, 710/20 by shifting the dropper on Register arm between Neutral wire and Live Wire. On clarification by AEE/Trd/Tuni, he bluffed that the clearance adjustment by shifting the dropper had been done. But the AKP, TUNI feeder CBs tripped five times on NPC and OCR on 29.3.98. On examination at REG/SP, IOL at Loc. 710/20, it is found that the dropper adjustment has not been done.
- II. His negligence in discharging his duties and adamant nature of obey instructions resulted in the above failure.

The applicant submitted his explanation. A copy of explanation submitted by the applicant is at page 16 Annexure A-4 to OA. The disciplinary authority after considering the explanation by his proceedings No.B/Tr.D/TUI/DAR/1, dt.18.6.98 (Annex-3, page.14 to OA) passed the penalty which reads as under:

'Hence the disciplinary authority decided to impose a penalty of "with holding" his next annual increment raising his pay from Rs.4600 to 4700 in Scale 4000-6000 Rs.(RP) 1997 normally due on 1-9-98 for a period of two years (Non recurring). This will not postpone in future increments'.

3. Against the said penalty order the applicant submitted an appeal dt.18.7.98. A copy of which is at Annex.2, page 11&12 of OA.
4. The appellate authority considered the appeal and duly observing as under:
 " I have carefully gone through the case and the explanation (appeal) given by the party is not acceptable. When the party attended OHE on 18.3.1998, how the problem of OHE should come on 29.3.1998. It clearly indicates the work carried out is not upto the standard. Hence I feel revision of penalty is not necessary. I uphold the punishment imposed by AEE/TrD/TUI. "

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rejected the appeal vide order No.B/E 150/TrD/DAR/I/2, dt. 16.9.98.(Annexure L page.10) of the O.A.

5. The applicant has filed this application for the following reliefs:

' To set aside the order of the 4th respondent No.B/TRD/TUI/DAR/1, Dated 18.6.1998 the disciplinary authority herein as confirmed by the order of the appellate authority, the 3rd respondent herein and direct the respondents to release the increment pursuant to the impugned order dt.18.6.1998.'

6. The respondents have filed their reply. They submit that as per instructions regarding break down , the work of adjustment of clearance at location KM 710/20 by shifting the register arm dropper at neutral wire of Regupalem/Sectioning & Paralleling post was entrusted to the applicant by AEE/TrD/TUNI (4th respondent) when he came to the site of work on 18.3.98. On that day the applicant was given information to the Traction Power Controller on Completion of day's work that he has done the work of protecting the cut catenary wire by providing 2 metres catenary wire with 6 nos, parallel Groove clamps and additional support of binding wire. The same has been recorded in the Traction Power Control daily chart dt.18.3.98 (Annexure R-1). The applicant in his daily progress register recorded on completion of work noted the power block period from 14.50 hrs to 15.17 hrs. On Down Elementary Section 27406 & 28210, catenary wire 2 leads cut, 2 metres stepenary catenary wire with 6 parallel Grove clamps provided at location No.710/20-22 and also with binding wire3 protection. The applicant further added "Dropper adjusted" in the same , obviously after occurrence of the incident on 29.3.98 (Annex.R-2) . This clearly indicates that the applicant tried to manipulate the records to cover up his negligence/mistake before the supervisor and IV respondent of his failure to complete the work fully as entrusted by the IV respondent.

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7. Thus they have produced the annexures to the reply to submit that action taken by the respondents are fully justified.

8. The only point urged by the applicant is that the appellate authority before considering his appeal has not given an opportunity. For this the learned counsel for the respondents submitted that the applicant has not set out any new facts in his appeal and that he had represented what he had submitted in his explanation to the charge memo.

9. The appellate authority order is very brief. The appellate authority could have given an opportunity before taking the decision in the matter. The applicant could have been confronted with the documents which are now produced as annexures to the reply. Then the applicant could have been in a position to explain his any mistake or lapses occurred on his part. Further the appellate authority could have considered the grounds stated by the applicant. The appellate authority was of the opinion that the applicant had not raised any fresh grounds he should have indicated so in its order. Such an observation is not available in the appellate authority order.

10. In that view of the matter I feel it proper to set aside the order dt.16.9.98 passed by the appellate authority and to direct the appellate authority to consider the appeal dt.18.7.98 in accordance with the rules after giving the applicant an opportunity of personal hearing.

10. Hence I pass the following directions:-


(a) The application is allowed in part.

(b) The order dt.16.9.98 passed by the respondent no.3 is hereby set aside.

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- (c) The appellate authority shall consider the appeal dt.18.7.98 in accordance with the rules after giving him an opportunity of personal hearing.
- (d) The appellate authority shall confront the documents which are now annexed to the reply and seek an explanation from the applicant.
- (e) The appellate authority shall dispose of the appeal within 2 months from the date of receipt of a copy of this order.

11. With the above directions the OA is disposed of. No order as to costs.



(B. S. Jai Parameshwar)

Member (Judl.)

7.8.2000

'SA'.

Dated: 7th August, 2000
(Dictated in open court)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:-

1ST AND 2ND COURT

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

TYPED BY _____ CHECKED BY _____
COMPILED BY _____ APPROVED BY _____

THE HON'BLE MR. JUSTICE DH. NASIR
VICE-CHAIRMAN

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

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

DATE OF ORDER 07/8/2000

MA/RA/CP. NO

IN

CA: N.L. 1128/99

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)

