

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.No.1192/99

Date of order: 18-8-99

Between:

M.Jangaiah

...Applicant

and

1. The Divisional Railway Manager (P),
South Central Railway,
MG/Hyderabad Division,
Secunderabad.

2. Senior Section Engineer (C&W),
Moulali, S.C.Railway,
Secunderabad.

3. Assistant Personnel Officer (M),
ORM Office, Personal Branch,
Hyderabad.

...Respondents

Counsel for the Applicant : Mr.G.Abdul Khader, Advocate

Counsel for the Respondents: Mr.V.Rajeshwar Rao, SC for Rlys

CORAM:

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

...

O r d e r

Heard the learned counsel Mr.G.Abdul Khader for the applicant and the learned standing counsel Mr.V.Rajeshwar Rao for the Respondents.

2. The applicant was appointed as Khalasi on 12-12-1984 and subsequently he was transferred to Moulali Depot under Hyderabad Division. Further, according to the applicant, on 26.3.98 he was booked for relief duties to IOH Shed, Secunderabad but he came to know that the normal practice was that the junior employees were booked for relief duties and therefore, the applicant requested the 2nd respondent

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...contd.

not to book him for the relief duty and to book his juniors for relief duty in accordance with normal practice. However, according to the applicant, the second respondent at that stage abused him with filthy and vulgar language and also openly expressed that he will take revenge against the applicant.

3. It further appears that the applicant was prosecuted for offences punishable under Sections 186 and 323 of IPC. However, he was acquitted of the said offences by an order passed by the Special Judicial Magistrate, Second Class, North, and East Hyderabad.

4. The OA.1033/98 earlier filed by the applicant in this Tribunal was disposed of by order dt.19.8.98. In para-3 of the judgement in that OA, it is observed that earlier the applicant had filed OA.520/98 against the same order which was disposed of on 30.4.98 with a direction to him to submit a detailed representation and it was observed that if such a representation was made within the time indicated, the applicant shall be continued in the same capacity, if a vacant post was available in the Depot. Accordingly, the applicant submitted a representation on 4.5.1998 requesting for cancellation of his transfer and for his retention in the present post. This has been duly examined and a detailed reply was given on behalf of Respondent No.1. It is also observed in para 4(e) of the judgement that the assertion that Respondent No.1 was influenced by Respondent No.2 was merely an allegation and no more, and any quarrel between Respondent No.2 and the applicant was not material for that OA before that Bench. The proceedings were then taken for cancellation of his transfer to Purna. The learned counsel for the applicant submitted that the order of transfer was not questioned before the Bench which decided OA.1033/98 that the allegation made that he assaulted respondent no.2

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was not proved and therefore the transfer was held to be illegal and not enforceable.

5. Before filing this OA the applicant made a representation dt.15.7.99 stating that while he was discharging his duties he was booked for relief duty to IOH Shed at Secunderabad on 26.3.98 and the applicant requested the Sr.Section Engineer (C&W), Moulali, Secunderabad not to book him for relief duty but the Sr.Section Engineer abused him with filthy and vulgar language and openly expressed out of the previous vengeance against the applicant that the applicant had not worked in the house of the Sr.Section Engineer (C&W) when ^{he} was shifting his house. However, it appears that the applicant was prosecuted on an allegation that he assaulted the Respondent No.2 and not that the Respondent No.2 assaulted the applicant.

6. Keeping this contradictions in view I believe that the interests of justice will be served if a representation is made by the applicant to Respondent No.1 so that he could consider as to whether the applicant was at all involved in ^{the} ~~prosecution case~~ ^{allegations made against him} and to enable the Respondent No.1 to come to a conclusion whether the impugned transfer order could be cancelled or quashed.

7. This OA is therefore disposed of with a direction to the Respondent No.1 to consider the representation already made by the applicant and dispose of the same within 2 months from the date of receipt of copy of this order.

8. The O.A. is disposed of accordingly. No costs.

Dair
(Justice D.H.Nasir)
Vice-Chairman

Dated: 18th August, 1999

'SA'

(order dictated in the open court)

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usse

COPY TO:-

1. HDHND
2. HRRN M (A)
3. HBSJP M (J)
4. O.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1st AND II nd COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD:

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)

ORDER DATE: 18/8/99

MA/RA/CP.NO

IN

DA.NO.

1192/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

O.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

B/w 08/08/99
R

8 copies

