

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

**OA/021/655/2018**

**Date of Order : 17.07.2018**

Between:

R. Yadagiri,  
S/o. Narsaiah,  
Aged about 50 years,  
Occ: Senior Clerk,  
O/o. Senior Divisional Personnel Officer,  
Nanded Division,  
South Central Railway,  
Nanded District, Maharashtra State.

..... Applicant

AND

1. Union of India rep. by  
General manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.
2. The Additional Divisional Railway Manager,  
South Central Railway,  
Nanded Division,  
Nanded District, Maharashtra State.
3. The Divisional Personnel Officer,  
South Central Railway,  
Nanded Division, Nanded District,  
Maharashtra State.
4. S.M. Prasad, Enquiry Inspector/ Head Quarters,  
And Enquiry Officer,  
O/o. Senior Deputy General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.

..... Respondents

Counsel for the Applicant : Mr. M.C. Jacob

Counsel for the Respondents : Mr. S.M. Patnaik, SC for Railways

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDL. MEMBER

## **ORAL ORDER**

{ Per Hon'ble Mr.Justice R.Kantha Rao, Judl. Member }

Heard Shri M.C. Jacob, learned counsel appearing for the Applicant and Shri S.M. Patnaik, learned Standing Counsel for the Respondents.

2. With the consent of both the learned counsel, the O.A. is disposed of basing on the contents of the O.A. and the written instructions submitted by the learned Standing Counsel appearing for the Respondent Railways and also on the submissions made by the learned counsel on either side.

3. While the Applicant was working as a Senior Clerk in the O/o the Senior Divisional Personnel Officer, he was placed under suspension by order dated 2.9.2014 in contemplation of disciplinary proceedings. Subsequently, the suspension was revoked by order dated 5.11.2014 and he was transferred to Guntakal Division.

4. The inquiry was proceeded with. It was concluded. The Inquiry Officer submitted a representation to the disciplinary authority. The disciplinary authority issued a show cause notice to the Applicant to submit his response to the inquiry report, a copy of which was furnished to him along with show cause notice. At that stage, the Applicant filed the present O.A. stating that he submitted a bias application dated 11.8.2017 to the disciplinary authority against the Inquiry Officer which the disciplinary authority in fact has to forward to the Revising Authority. The version of the Applicant is that the disciplinary authority kept the bias application with him without forwarding the same to the Revising Authority and the inquiry was proceeded with and was concluded. His contention is that proceeding with the inquiry

without disposing of the bias application is illegal and his bias application is, therefore, required to be disposed of before passing any final orders by the disciplinary authority pursuant to the submission of inquiry report by the Inquiry Officer. The Applicant, therefore, filed the present O.A. to set aside the inquiry proceedings as well as the report of the Inquiry Officer as illegal and in violation of the Railway Board orders.

5. The learned counsel appearing for the Applicant would contend that whenever a bias application is submitted to the disciplinary authority, it has to be forwarded to the Revising Authority and without disposing of the bias application, the inquiry shall not be proceeded with. In the instant case, the inquiry proceedings, according to the learned counsel, are vitiated because of the non-disposal of the bias application. On the other hand, learned Standing Counsel for Railways would submit that no bias application dated 11.8.2017 as alleged by the Applicant is submitted to the disciplinary authority and a false plea was taken by the applicant to stall the inquiry proceedings without passing any final orders in the matter. The learned Standing Counsel filed Despatch Register to show that there is no entry of receiving bias application dated 11.8.2017 in the said Register. On the other hand, learned counsel appearing for the Applicant demonstrated the Office Stamp on the copy of the bias application indicating that it was received in the Office.

6. In view of the rival contentions, it is not possible for the Tribunal to record a specific finding as to whether the Applicant submitted a bias application dated 11.8.2017 as contended by him. In any event, even after 11.8.2017, the Applicant participated in the inquiry and the inquiry was concluded. The Inquiry Officer submitted his report to the disciplinary

authority and the disciplinary authority in turn issued show cause notice to the applicant to submit his remarks to the inquiry report. In this context, learned Standing Counsel for Railways would submit that without making any protest before the Inquiry Officer, the Applicant participated in the inquiry and now it is not open for him to seek the stay of the proceedings or set aside the inquiry report at a belated stage.

7. Having gone through the submissions made on either side, I am of the considered view that the inquiry proceedings cannot be stayed at this stage. However, the disciplinary authority, who received the inquiry report and will pass the final order against the Applicant, has to answer the contention urged by the Applicant that he submitted a bias petition on 11.8.2017 to him and the same is kept pending without any disposal. The Applicant is permitted to submit his reply to the show cause notice issued by the disciplinary authority inviting his comments on the inquiry report by the end of July, 2018 making submission regarding filing of the bias petition before the disciplinary authority and the contentions urged by him therein. The disciplinary authority, as already said, has to answer the contentions put forth by the Applicant, while passing the final order pursuant to the inquiry report received by him.

8. Consequently, without going into the merits, the O.A. is disposed of in the above terms. No order as to costs.

(JUSTICE R. KANTHA RAO)  
JUDL. MEMBER

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