

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 21/393/2016

Reserved on: 20.03.2019

Pronounced on: 22.03.2019

Between:

M.A. Rasheed Jameel, S/o. M.A.G. Jameel,
Aged about 46 years, occ: Health Inspector,
SC Railway, Moulali, Hyderabad Division.

... Applicant

And

1. Union of India, rep. by The General Manager,
S. C. Railway, Rail Nilayam, Secunderabad- 500 071.
2. The Chief Medical Superintendent,
Railway Hospital, SC Railway,
Guntakal Division, Guntakal.
3. The Senior Divisional Personnel Officer,
SC Railway, Guntakal Division, Guntakal.
4. The Senior Divisional Personnel Officer,
SC Railway, Hyderabad Division, Secunderabad.
5. The Union of India, Rep. by the General Manager,
S.W. Railway, Hubli, Karnataka.
6. The Senior Divisional Personnel Officer,
S.W. Railway, Hubli Division, Hubli, Karnataka.
7. Asst. Divisional Medical Officer,
SW Railway, Railway Health Unit,
Hubli Division, Vascodegama, Goa.

... Respondents

Counsel for the Applicant ... Applicant in person

Counsel for the Respondents ... Sri N. Srinivasa Rao, SC for Rlys

CORAM:

Hon'ble Mr. B.V. Sudhakar ... *Member (Admn.)*

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OA is filed challenging the adverse entries made in the service register of the applicant without issue of notice or as a consequence of disciplinary action.

3. Brief facts of the case are that the applicant is working as health inspector in the respondents organisation. Applicant claims that in his service register entries were made in page 7 about the penalty withholding of passes for the year 10.1.2001 to 10.1.2002 followed by another entry in page 9 cancelling the penalty. Thereafter once again one more entry was made in page 10 of the service register about the penalty of withholding of passes. On representing when there was no response from the respondents applicant filed OA 76/2015 wherein it was directed to dispose of the applicant's representation. Accordingly respondents disposed of the representation rejecting the request of the applicant by order dt 10.8.2015. Aggrieved over the same the OA is filed.

4. The contentions of the applicant is that recovery pertaining to the period 2001-2003 was effected after a period of 9 years in 2012 without any notice or any disciplinary action being initiated against him . Applicant claims that he is unaware of the adverse entries in the service register. Respondents taking the stand that since the preservation period of 3 years is over, the relevant records are not available is unjust. Further, Sr Medical Supdt is the competent disciplinary authority and not the ADMO. Therefore penalty imposed by the later authority on the applicant and the associated entry in the service register are invalid. RS (D&A) rules are to be followed as pronounced in OA 309/2008 of this Tribunal. Applicant has cited some orders of this Tribunal in certain OAs

in regard to issue of notice/requirement of issue of a speaking and reasoned order as well as the necessity of the competent disciplinary authority to impose a penalty. The applicant has filed a rejoinder where he argued that the respondents are claiming on one hand that the GM, Chief Medical Supdt. and Senior Divisional Personnel officer have imposed the punishment and on the other hand are stating that the records are not available. The Hyderabad Tribunal has dealt with a disciplinary issue pertaining to Hubli division of the respondents organisation in OA 680/2012 and hence there cannot be any jurisdictional constraint in adjudicating the instant OA.

5. Respondents contra state that when the applicant worked in Hubli division of the respondents organisation during the period 4.7.1999 to 12.5.2001 the alleged penalty was imposed for misconduct. Instead of contesting the case at that instant of time in Hon'ble Bangalore bench of this Tribunal filing an OA after 15 years in this Tribunal is incorrect and that to for a matter coming under the jurisdiction of another Tribunal. Original records for the period in question are not available since their preservation period is over. The punishments were imposed by the G.M, Chief Medical Supdt., and Senior Divisional Personnel officer. Nevertheless, based on the directions of this Tribunal in OA 393 of 2016 applicant's representation was examined and rejected. The Hubli division of the respondents organisation has filed a reply statement wherein it was stated that as per the directions of this Tribunal in OA 416/2012 the representation of the applicant was disposed. An increment due to the applicant on 1.9.2001 was postponed by 24 months and pay fixed as per fixation memo dt 7.12.2007. Besides, details of 13 OAs filed by the applicant have been furnished challenging

suspension, penalties imposed, absence from duty, fixation of pay, service book entries etc.

6. Heard the Party in Person and the learned respondent counsel. Replies and rejoinder along with the written arguments submitted by the Party in Person have been gone through minutely. Relevant aspects are being touched upon by this Tribunal to come to a fair conclusion.

7. The prayer of the applicant is to direct the respondents to delete the entries made in the service register at pages 7, 8 & 9 withholding one set of passes for one year w.e.f 10.1.2001 to 10.1.2002. The OA in regard to an issue which occurred in 2001 was filed on 18.4.2016 after a lapse of nearly 15 years. Therefore the OA has to be rejected as per section 21 of the AT act 1985 for not filing the OA within the time period allowed. Nevertheless, having admitted the OA, it would be fair to look at the grievance of the applicant. The claim of the applicant is that he came to know of the adverse entries made in the service register only when a recovery was ordered. Had the recovery been made in 2001 itself applicant claims that he would have appealed against such an order. The applicant is in the cadre of a Health Inspector and based on his submissions made before this Tribunal it was evident that he is in the know of the things about his organisation and his rights as an employee. The employees of the respondents organisation are encouraged to come and see for themselves the service registers maintained so that no issue would crop up at the time of retirement in regard to pay and allowances and other benefits like leave at credit etc. Hence it is not understood as to why the applicant who is well versed with the rules of the respondent organisation did not peruse the service register. One

more aspect that deserves a mention is that the Ld counsel for the respondents has argued that the applicant is prone to indulge in vexatious litigations by filing cases on similar matters. Ld counsel has stated that the applicant has filed totally 13 cases against the respondents in the Tribunal and in the Hon'ble High Court. When questioned the applicant informed that it is not true and that he has filed only 3 to 4 OAs. In contrast the respondents have given details of all the 13 cases filed relating to discipline and allied matters in the reply statement. Hence it is clear that the applicant is prone to make untruthful statements. Delving a little deeper into the case, if we see the service book registers at pages cited the entries are clear with the details of the memo based on which such entries have been made. It would not be possible for the respondents to make such specific entries unless related events have happened. The applicant claiming that the entries belong to others is too naive to be accepted. Moreover, the entries are detailed indicating the background for such an entries. As per preservation of records the relevant document are to be preserved for 3 years only . Hence they are obviously not available as claimed by the respondents. Pressing for such documents at this distant date under the garb that notice was not issued, competent authority has not issued the order etc lacks logic. It was incumbent on part of the applicant to agitate at that instant of time by being alert and perusing the service record since it is permitted by the respondents and particularly when applicant has moved through 3 divisions of the respondents organisation on transfer. The number of cases filed by the applicant on discipline and allied matters gives an impression that the applicant is not approaching the judicial fora with a sense of responsibility, as is expected from an employee of his cadre. The OAs cited by the applicant are not relevant since in those cases applicants approached the Tribunal in time with the required records. At this distant date of

nearly 15 years of the event in question happening, applicant claiming relief by seeking records whose preservation period is over, is not in realm of reason. The applicant has also not produced any evidence to contradict the entries in the service register to intervene on his behalf. Hence we do not find any justifiable reasons nor any merit to intervene on behalf of the applicant. Therefore the OA is dismissed with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 22nd day of March, 2019

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