

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/020/23/2019

Dated: 28.01.2019

BETWEEN

S. Meeraiah,
S/o. S. Seshaiah,
Aged 57 years, Occ: Senior Technician, Group 'C'
Token No.1049, MW Shop,
Carriage Repair Shop,
South Central Railway, Tirupati,
Chittor Dist., A.P.

....Applicant

AND

1. Union of India rep. by
the General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
2. The Chief Workshop Engineer,
South Central Railway,
Rail Nilayam,
Secunderabad.
3. The Chief Workshop Manager,
Carriage Repair Shop,
South Central Railway,
Tirupati.
4. The Deputy Chief Mechanical Engineer,
Carriage Repair Shop,
South Central Railway,
Tirupati.
5. G. Eswaraiah,
The Deputy Chief Mechanical Engineer,
Carriage Repair Shop,
South Central Railway,
Tirupati.
6. Mohit Tiwari,
Inquiry Officer & Production Engineer,
Carriage Repair Shop,
South Central Railway,
Tirupati.

....Respondents

Counsel for the Applicant : Mr. K.R.K.V. Prasad
Counsel for the Respondents : Mr. S.M. Patnaik, SC for Railways

CORAM :

Hon'ble Mr. Justice R. Kantha Rao, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

(Per Hon'ble Mr. Justice R. Kantha Rao, Judl. Member)

Heard Shri K.R.K.V. Prasad, learned counsel appearing for the applicant and Shri S.M. Patnaik, learned Standing Counsel appearing for the respondents.

2. The applicant is a Senior Technician in South Central Railway. He is also the elected President of Railway Mazdoor Union for South Central Railway. It seems that the Indian Railway Mazdoor Union, South Central Railway lodged a complaint against the 4th & 5th respondents and also against various authorities including the General Manager, South Central Railway, making allegations of corruption and other serious allegations. It is the version of the applicant that on account of the activities of the Union, he being one of the office bearers, he was targeted by the authorities and a false charge memorandum was issued against him alleging omission of certain duties entrusted to him.

3. Obviously, in this case earlier an Inquiry Officer was appointed and he withdrew from inquiry on the ground that he did not want to proceed with the inquiry. Another Inquiry Officer was appointed and he conducted the inquiry while the applicant was on sick list. Thereafter a copy of the inquiry report was provided to the applicant seeking his reply. The applicant replied

to the inquiry report, making several contentions which include malafidies, conducting the inquiry while he was on sick list and, the competence of the authority which imposed the penalty and also taking additional evidence and additional material objects in his absence which were not originally found place in the charge memo.

4. The primary objection by the respondents in their reply statement is that the O.A. is filed without exhausting the alternative remedies available to the applicant. The respondents contended that under the Railway Servants (Discipline & Appeal) Rules 1968, the applicant has remedies of appeal as well as revision and without exhausting the remedies, he cannot file the present O.A. before the Tribunal.

5. In this context, it would be necessary to look into Section 20 of the Administrative Tribunals Act. The language employed in Section 20 is that *the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed all of the remedies available to him under the relevant service rules as to redressal of the grievance.* Therefore, there is no absolute prohibition to entertain an O.A. by the Tribunal. But in view of the expression *shall not ordinarily admit*, only in very exceptional cases, the O.A. which is filed without exhausting the alternative remedies can be admitted.

6. In this context, we wish to state that the grounds that lot of injustice has been done to the applicant or that the relevant rules have not been followed while conducting inquiry or that the punishment is shockingly disproportionate or that the inquiry was prompted by malafidies or that the applicant has strong case of success, do not constitute exceptions to the

general principle that the Tribunal shall not admit an O.A. without exhausting the alternative remedies. The reason being, the same questions can as well be raised before the appellate or revisional authority. One more aspect we wish to mention here that if the O.A. is admitted and several years have elapsed and a question as to the maintainability is raised, then the considerations for deciding the issue would be different. But when at the threshold an objection has been raised by the respondents as to the maintainability of the O.A. on the ground of non-exhausting the alternative remedies, the Tribunal is under the duty to examine the said question and has to decide as to the admissibility of the O.A.

7. In the instant case, we are of the view that all the questions raised by the applicant before the Tribunal in the O.A. can be raised before the appellate or revisional authorities and those issues can be adjudicated by them. Therefore, we do not think that this case can be admitted by the Tribunal without exhausting the alternative remedies available to the applicant. The O.A. is, therefore, dismissed at the stage of admission, directing the applicant to exhaust the alternative remedies available to him under the Service and Disciplinary Rules and then if necessary, approach the Tribunal for redressal. There shall be no order as to costs.

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

**(JUSTICE R. KANTHA RAO)
JUDL. MEMBER**

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