

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/20/174/2014

Dated: 22/11/2019

Between

S. Mahesh Naidu,
S/o. Satyam Naidu,
Aged 30 years, Occ: Senior Assistant Loco Pilot,
O/o the Chief Crew Controller,
Guntur Division, South Central Railway,
Guntur.

... Applicant



AND

1. Union of India rep. by
The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
2. The Medical Director,
Central Hospital,
South Central Railway,
Lallaguda, Secunderabad.
3. The Divisional Railway Manager,
Guntur Division,
South Central Railway, Guntur.
4. The Chief Medical Superintendent,
Railway Hospital, South Central Railway,
Vijayawada.
5. The Sr. Medical Superintendent (Medical Examination),
Railway Hospital,
Vijayawada.
6. The Senior Divisional Mechanical Engineer (TRSO),
Guntur Division,
South Central Railway,
Guntur.
7. The Chief Crew Controller,
Guntur Division,
South Central Railway, Guntur.

8. Assistant Divisional Mechanical Engineer,
Guntur Division, Guntur.

... Respondents

Counsel for the Applicant : Mr. K.R.K.V. Prasad
Counsel for the Respondents : Mr. D. Madhava Reddy,
SC for Railways

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mrs. Naini Jayaseelan, Admn. Member

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant is working as Senior Assistant Loco Pilot in the Guntur Division of South Central Railways. In June 2011, he was required to undergo the periodical medical examination. He is said to have examined by the Railway Board between 21st & 27th of June, 2011, and thereafter, referred to the Central Hospital at Lallaguda, where he appeared on 28.06.2011. It is stated that he was tested on 01.07.2011, but was required to obtain the record in GM-3 form, from the hospital at Vijayawada. The plea of the applicant is that the hospital at Vijayawada made him to go around them up to 31.07.2011 and thereafter forwarded the record to the hospital at Lallaguda. On 02.08.2011, the hospital authorities at Lallaguda said to have observed that the record is incomplete. The applicant states that he approached the hospital at Vijayawada on 02.08.2011 and on being directed, he went to his office at



Guntur. The record is said to have been made available to him on 03.08.2011. He contends that he visited Vijayawada hospital on 04.08.2011 and Lallaguda hospital on 05.08.2011, and that he has been referred to Apollo Hospital, and ultimately, the fitness certificate was issued on 11.11.2011. It was mentioned in the certificate that he remained sick between 21.06.2011 & 03.11.2011. On an objection being raised by the applicant, it was endorsed that he was absent during that period.

2. In view of the endorsement in the fitness certificate, the Disciplinary Authority issued a minor penalty charge memo on 26.09.2012, requiring the applicant to explain why penalty be not imposed for the unauthorized absence for 104 days. The applicant submitted representation, and on consideration of the same, the Disciplinary Authority imposed the penalty of withholding of one increment, for a period of 35 months, through order dated 04.02.2013. On the appeal preferred by the applicant, the penalty was reduced to be of 18 months, through order dated 12.12.2013. This O.A. is filed, challenging the order of the Disciplinary Authority dated 04.02.2013, as modified by the Appellate Authority dated 12.12.2013. The applicant has also challenged the endorsement on the fitness certificate dated 11.11.2011.

3. The applicant contends that there was no occasion for the Medical Officer to make any endorsement about unauthorized absence. He submits that it is only on being required by various hospitals to furnish



some information or the other, that he could not report to duty, and soon after the fitness certificate was issued, he reported to duty. He contends that the very fact that the Medical Officer, who issued the certificate was wavering in his approach, discloses the lack of objectivity in it. Another contention is that the respondents ought to have conducted inquiry, contemplated under Rule 11 (b) of the Railway Servants (Discipline & Appeal) Rules, 1968.

4. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that the applicant was absent unauthorizedly for more than 104 days, and that in case any Medical Officer or hospital required him to wait for longer period, the same should have been reported to the concerned authority.

5. We heard Sri KRKV Prasad, learned counsel for the applicant and Sri B. Sreehari representing Sri D. Madhava Reddy, learned counsel for the respondents.

6. The genesis for the imposition of the penalty or treating some period of service of the applicant as 'not on duty' is, the medical test which, the applicant was required to undergo. He visited the hospital at Vijayawada and it is not known as to why it took nearly one week for the hospital to come to a conclusion. It is not as if that even after one week, the hospital arrived at a definite conclusion. He was referred to the Hospital at Lallaguda. When the applicant was asked to get the relevant record in GM-3 form, it took one month for him. Though it is stated that

he was made to go around the hospital every day, during that period, the record is not clear about it. He is said to have been referred to Apollo Hospital and, ultimately the certificate was given.

7. It is true that the relevant rules provide for treating the period taken for medical examination, as *aduty*. In this case, it was not as if, the applicant has undergone any prolonged treatment or there is evidence to show that the relevant hospital made him to visit every day for relevant treatment. In case there was any undue delay or gap between the various events, he was expected to report the matter to the authority, who referred him to the medical examination. The record is silent about it.

8. The Senior Assistant Loco Pilot plays an important role in the running of Railways. His absence for a period exceeding three months, without any proper cause, is indeed, a matter of concern. Since the applicant remained absent, for a period of 100 days, minor penalty of reduction of one increment for 35 months was imposed. That again was reduced to half. We are of the view that no injustice was caused to the applicant and the proceedings do not suffer from any legal infirmity.

9. We do not find any merit in the O.A. Accordingly, the O.A. is dismissed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)
pv

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN