

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 23890 OF 2013

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Aggrieved by the order passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.554 of 2011, dated 22.04.2013, the Union of India has invoked the jurisdiction of this Court.

The first respondent herein was issued a charge sheet while he was working as an Assistant Station Master. The charge memo details several charges, reference to which is wholly unnecessary for the purpose of adjudication of the present dispute. The first respondent, by his letter dated 12.05.2009, informed the Senior Divisional Operations Manager (Disciplinary Authority) that he had received the charge sheet dated 05.05.2009, and had acknowledged the same; he understood the contents of the charge sheet; and he was unconditionally accepting the charges framed against him. The first respondent requested the fourth petitioner herein (Disciplinary Authority) to exonerate him as a special case. The Disciplinary Authority however imposed on him the punishment of compulsory retirement from service. Aggrieved thereby, the first respondent preferred an appeal to the Additional Divisional Railway Manager who, by his order dated 29.10.2009, confirmed the order passed by the Disciplinary Authority. Aggrieved thereby, the first respondent preferred a revision to the Divisional Railway Manager (Personnel) who, in his order dated 16.09.2010, noted the fact that the first respondent was imposed the punishment of compulsory retirement, which was upheld by the Appellate Authority. The revisional authority confirmed the penalty imposed on the first respondent. No reasons were assigned by him for rejecting the revision preferred by the first respondent. Aggrieved thereby, the first respondent invoked the jurisdiction of the Tribunal. In the order, under challenge in this writ petition, the Tribunal held that, even if the employee admits the charges, he should be given an opportunity of being heard and explain his position as to how and why the omissions and commissions were committed; the department

may, then, have taken a different view; as disciplinary proceedings were not held, presumptions could be drawn that prejudice was caused to the charged employee; and both the appellate and revisional authorities had also not followed Rule 22(2) in its letter and spirit. The O.A was allowed, the impugned order was set aside, and the petitioners herein were directed to reinstate the first respondent applicant into service forthwith as Assistant Station Master, with effect from 20.07.2009, with all consequential benefits. Liberty was reserved to the petitioners herein to hold an enquiry and pass orders afresh.

Disciplinary enquiry is conducted to enquire whether or not the delinquent employee is guilty of the charges levelled against him. In the present case, the first respondent herein has unconditionally admitted his guilt. Holding of a disciplinary enquiry is to ascertain the guilt of the charge sheeted employee and, since the first respondent admitted his guilt, it is wholly unnecessary for a departmental enquiry be held. The Tribunal has erred in holding that, even where the employee admits his guilt unconditionally, a disciplinary enquiry should be conducted. Once the charges are admitted, the only opportunity which the delinquent employee would have is to satisfy the competent authorities that the punishment imposed on him, by the disciplinary authority, is disproportionate to the charges to which he had admitted his guilt. As the rules do not require a show cause notice to be issued, with regards the proposed punishment, such an opportunity is available to the delinquent employee only before the appellate and revisional authorities. The revisional authority has, in the present case, not even considered the contention of the first respondent applicant that he should not have been imposed a capital punishment of his service being terminated. While failure on the part of the revisional authority to consider this aspect would have necessitated the revisional order to be set aside, and the matter remanded for his consideration afresh, the Tribunal has clearly erred in directing reinstatement of the first respondent applicant with all consequential benefits. It was wholly unnecessary for the Tribunal to grant liberty to the petitioners herein to conduct an enquiry, as no enquiry need be held where the delinquent employee unconditionally admits his guilt.

The order of the Tribunal is, accordingly, set aside. As the revisional authority has failed to consider the proportionality of the punishment imposed

on the respondent applicant vis-à-vis the charges admitted by him, the order of the revisional authority is also set aside. The revisional authority shall, within two months from the date of receipt of a copy of this order, give the first respondent - applicant an opportunity of being heard, and thereafter pass a revisional order afresh in accordance with law.

The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

Date: 23.04.2015

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