

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.7.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.3193 of 2017

1. Union of India
rep. by the General Manager
Southern Railway
Park Town
Chennai 600 003.

2. The Additional Divisional Railway Manager
Southern Railway
Tiruchirappalli Division
Tiruchirappalli 620 001.

.. Petitioners

Vs.

1. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai.

2. R.Soundararajan

.. Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records on the file of the first respondent in O.A.No.123 of 2015 dated 31.8.2016 and quash the same.

For Petitioners : Mrs.A.Srijayanthi

For Respondent-2 : Mr.R.Pandian

ORDER

(Made by Huluvadi G.Ramesh,J)

The petitioner has come up with this writ petition challenging the order of the Central Administrative Tribunal dated 31.8.2016 in O.A.No.123 of 2015.

2. Heard Mrs.A.Srijayanthi, learned Standing Counsel appearing for the petitioners and Mr.R.Pandian, learned counsel for the second respondent.

3. It appears that the second respondent, who was working as Senior Khalasi, was removed from service on account of his conviction in the year 1995, for committing theft of railway property in the year 1982. However, the second respondent was acquitted in the year 1998. In view of his acquittal, the second respondent was reinstated into service, by reducing the penalty of removal from service to the lowest grade of Khalasi for a period of five years with loss of seniority. Therefore, he filed a review application to the second petitioner. As no order was passed on the said review application, the second respondent filed O.A.No.1264 of 2012 and the same was disposed of directing the second petitioner to consider and pass orders on the application within a stipulated time. Accordingly, the second petitioner passed an order confirming the penalty of reduction to the lowest grade of Khalasi. Therefore,

the second respondent was forced to file an application in O.A.No.123 of 2015, wherein, the Tribunal, by the impugned order dated 31.8.2016, holding that the punishments of reduction to lowest grade and loss of seniority are harsh, set aside the punishment of loss of seniority and directed the petitioners to restore the seniority of the second respondent. However, regarding the punishment of reduction to lowest grade, the Tribunal left it open to the petitioners for its consideration and orders. Aggrieved by the said order, the petitioners have come up with this writ petition.

4. According to the petitioners, the second respondent has challenged only the subsequent proceedings of reducing the penalty, without challenging the initial disciplinary proceedings of the appellants and therefore, the Tribunal should not have interfered with the punishment imposed by the petitioners.

5. Admittedly, the petitioners have imposed on the second respondent the punishment of removal from service pursuant to his conviction and also based on the disciplinary proceedings initiated by them. However, when the second respondent was acquitted in the appeal, the petitioners have chosen to modify the said punishment of removal from service to the one of reduction to the lowest grade of Khalasi with loss of seniority for five years. We are of the considered view that even after the acquittal of the second

respondent, the imposition of punishment of loss of seniority for five years, apart from the punishment of reduction to the lowest grade of Khalasi, which would have the effect of postponing future increments, seems to be on the high side. Therefore, in our considered opinion, the Tribunal is right in setting aside the punishment of loss of seniority and thus, there is no scope for interfering with the order of the Tribunal, particularly, when the Tribunal has left it open to the petitioners to consider the case of the second respondent with regard to the punishment of reduction to lowest grade and to pass orders.

6. In view of the above, we dispose of this writ petition, leaving it open to the appellants to consider and pass orders with regard to the punishment of reduction to the lowest grade of Khalasi. There shall be no order as to costs. Consequently, WMP No.3142 of 2017 is closed.

Index : Yes/No
Internet: Yes/No

(H.G.R.J.) (G.J.J.)
12.7.2017

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To

The Registrar
Central Administrative Tribunal
Madras Bench
Chennai.

HULUVADI G.RAMESH,J,
and
G.JAYACHANDRAN,J

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W.P.No.3193 of 2017.

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12.7.2017.