
(2011) 12 AP CK 0050

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28698 of 2011

Chief Work Shops Engineer, South Central Railway,
Secunderabad and Others

APPELLANT

Vs

J. Krishna Babu and Another

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 79
Constitution of India, 1950 — Article 300

Citation : (2013) 1 ALD 276 : (2013) 3 ALT 635 : (2012) 2 ALT 351

Hon'ble Judges : Goda Raghuram, J;G. Krishna Mohan Reddy, J

Bench : Division Bench

Advocate : C.V. Vinitha Reddy, for the Appellant; K.S. Murthy, Counsel for Respondent No. 1 and None appeared, for the Respondent

Final Decision : Allowed

Judgement

Goda Raghuram, J.—The Writ Petition is by the Union of India represented by its General Manager, South Central Railway, Secunderabad (4th petitioner); and petitioners 1 to 3 who alone were impleaded as respondents in O.A. No. 573 of 2009, aggrieved by the order of the learned Central Administrative Tribunal, Hyderabad Bench (Tribunal) dated 06.06.2011, allowing O.A. No. 573 of 2009 filed by the 1st respondent and invalidating the order dated 12.12.2006 of the disciplinary authority; the order dated 04.02.2008 of the appellate authority and the order dated 10.12.2008 of the revising authority; while preserving liberty to the writ petitioners to conduct denovo departmental inquiry against the 1st respondent-applicant. In the O.A. only the petitioners 1 to 3 were impleaded. The applicant failed to implead the Union of India as a party respondent. It is axiomatic that an employee of the railways when litigating for service benefits is required to implead the Union of India which represents the Railway administration vide Shri Ranjeet Mal Vs. General Manager, Northern Railway, Baroda House, New Delhi and Another, ; a principle reiterated in The District Collector, Srikakulam and Others Vs. Bagathi Krishna Rao and Another, nd earlier

in Chief Conservator of Forests, Govt. of A.P. Vs. The Collector and Others,). The principle has been succinctly considered and reiterated in the judgment of a learned Division Bench of this Court in Lt. Rajender Singh Punia Vs. Chief of Naval Staff and Another,

2. No relief could have been granted against the Railway administration under whose name and authority orders inflicting the applicant with punishment pursuant to a disciplinary inquiry were passed; when the Union of India represented by the appropriate authority of the Railways is not impleaded. The order of the Tribunal is therefore in-executable against the South Central Railway.

3. It is however brought to our notice by Sri K.S. Murthy, learned Counsel for the 1st respondent-applicant that whenever the Union is impleaded as a party in a context where a railway employee seeks relief in a service matter before the Tribunal, applications are being filed by employees of the South Central Railway purportedly representing Union of India, contending that the Union of India has nothing to do with the reliefs prayed by the applicant and is thus not a necessary party. These applications are being allowed by the Tribunal is the complaint of the 1st respondent. It is also the contention of the learned Counsel for the 1st respondent-applicant that in view of this practice, applicants before the Tribunal are not impleading Union of India. To illustrate this fact, a copy of the petition in M.A. No. 215 of 2011 in O.A. No. 1223 of 2010 and a copy of the counter-affidavit filed by the respondent therein who was the applicant in O.A. No. 1223 of 2011 have also been placed before us and it is urged that MA. No. 215 was allowed by the Tribunal on 05.09.2011, deleting the Union of India from the array of respondents in O.A. No. 1223 of 2010.

4. In the light of the law declared in Ranjeet Mal's case (1 supra) and District Collector, Srikakulam v. Bagathi Krishna Rao (2 supra) and the Constitutional mandate of Article 300 of the Constitution of India; reiterated in Section 79 of the Code of Civil Procedure, it is axiomatic that Railways being a Department of Union of India, the Union in its constitutionally mandated juristic persona must be impleaded in every application, writ or proceedings, whether before the Tribunal or any other forum, whenever relief is sought against the Railways. Any practice that is contrary to the principle of the binding law supra, would be a wholly irregular practice.

5. On the above analysis, we are satisfied that the order dated 06.06.2011 in O.A. No. 573 of 2009 is unsustainable since it was passed without making the proper authority i.e., Union of India a party respondent to the O.A. However, we also notice from the facts narrated pertaining to O.A. No. 1223 of 2011 that non-impleadment of the Union of India as a party to the application seeking relief against the Railways is the consequence of some unauthorized practice being followed by the Railways in seeking deletion of the Union of India as a party, whenever it is impleaded rightly by the applicants. Consequently parties/litigants are also used to an irregular trauma in protraction of litigation, time has been thrust on practice in impleading respondents in O.As, which is affecting the

process.

6. For the aforesaid reasons, in the interest of justice and equity, we allow this Writ Petition; setting aside the order of the Tribunal dated 06.06.2011 in O.A. No. 573 of 2009 but by imposing costs of Rs. 1,000/- (Rupees One Thousand only) on the writ petitioners to be paid to the 1st respondent-applicant by the 2nd petitioner, within a period of two weeks from the date of receipt of a copy of this order. O.A. No. 573 of 2009 shall be taken up for adjudication denovo by the Tribunal, after the applicant files an appropriate application for amendment of the cause title in the O.A. for bringing on record the Union of India as a party. This exercise for impleadment shall be performed by the 1st respondent-applicant within a period of two weeks from the date of receipt of a copy of this order. Registry is directed to communicate a copy of this order to the Registrar, Central Administrative Tribunal, Hyderabad Bench, Hyderabad, for information.