

**PROCEEDINGS OF COURT CASES MEETING HELD WITH LAW OFFICERS
AND CHIEF LAW ASSISTANTS ON 24th May 2019**

Shri N. Murali Krishna, Sr. LO
Shri M.V. Ramana, LO/BZA
Smt. T. Satyavathy, LO/SC Divn
Shri K. Phani Raj, ACM/M&D

Sri G.S.Ratna Kumar, CLA/P/BZA
Shri K. Gopinath, CLA/Hqrs
Shri Kumar Kotappa, CLA/GTL
Shri Ashok Kumar, CLA/NED
Shri D.R.V.S.S.N. Raju, CLA/G/BZA
Shri S. Venkateswarlu, CLA/Engg./HQ
Shri S. Nagender, CLA/HYB
Shri S. Srinivas, CLA/GNT
Shri V. Apparao, CLA/HQ
Shri E. Satyanarayana, CLA/PCPO/HQ
Ms. Vijitha, CLA/Gaz./HQ

Withholding of Pensionary Benefits

Shri D.R.V.S.S.N. Raju, CLA/BZA presented the judgement dated 04.04.2019 delivered by the Central Administrative Tribunal, Hyderabad Bench in OA No.306/2018 in the matter of Shri T. Nageswara Rao, SSE/BVRM Vs. General Manager, South Central Railway & Ors. The applicant preferred the OA contesting withholding of an amount of Rs.26,88,083/- pensionary benefits, against shortage of railway material.

While dismissing the OA, the Tribunal observed that the applicant, while handing over charge of the post of in-charge of Stores a day before his retirement, has admitted shortage in railway material. However, the applicant failed to disclose this fact in the OA, which amounts that he has not come to court with clean hands. It was the duty of the applicant to safeguard the material under his charge. The court further observed that there is no recovery but the amount was only withheld. The Court held that there is no merit in the case for the Tribunal to intervene and dismissed the case.

Equal Work Equal Pay:

Shri Ashok Prasad, CLA/NED presented the judgement dated 10.05.2019 by the Apex Court in CA No.29892/2019 in the matter of State of Bihar Vs. Bihar Secondary School Teachers Struggle Committee, Munger & Ors. The WP filed challenging the difference in the emoluments between different categories of teachers i.e. Government Teachers and Niyojit Teachers even though both the categories of teachers were discharging same responsibility and were teaching the same syllabus and there was no difference in the performance of their duties and responsibilities.

The Supreme Court allowed the Appeal filed by the State Government and dismissed the Writ Petitions preferred by the Teachers Committee stating that in their considered view, there has been no violation of the Rights of the Niyojit Teachers nor has there been any discrimination against them.

Discharging from service for offences not involving serious moral turpitude:

Shri V. Apparao, CLA/HQ presented the judgement dated 26th April, 2019 in CA No.7011/2019 in the matter of State Bank of India Vs. Shri P. Soupramaniane. While dismissing the appeal filed by the State Bank of India the Supreme Court of India observed that though conviction for an offence involving moral turpitude

disqualifies a person from continuing in service in a bank, all cases of assault or simple hurt cannot be categorized as crimes involving moral turpitude. The conundrum that arises in this case is whether the conviction of the Respondent under Section 324 IPC can be said to be for an offence involving moral turpitude.

The Supreme Court held that the Respondent is not guilty of an offence involving moral turpitude and he is not liable to be discharged from service.

Termination in cases of Contractual Appointment – Terms of Appointment

Shri S.Nagender, CLA/SC presented the judgement dated 3rd May 2019 delivered by the Supreme Court of India in CA No.4593 arising out of SLP(C)No.10907/2017 in the matter of Rajasthan State Roadways Transport Corporation Vs. Paramjeet Singh. The Apex Court observed that the terms of the appointment indicate that the respondent was purely contractual appointment and that the services could be dispensed with without notice at any stage. Hence, having regard to the terms of appointment, terminating services of the respondent cannot be faulted.

Imposition of different punishments on charged employees involved in same misconduct

Ms. Vijitha, CLA/Gaz/HQ presented the judgement dated 29th July, 2013 delivered by the Supreme Court of India in Civil Appeal NOs...6142/2013 arising out of SLP (C) No.10025/2012 in the matter of Lucknow K. Gramin Bank Vs. Rajendra Singh. The Apex Court observed that the Disciplinary Authority cannot impose a comparatively lighter punishment to the co-delinquent and at the same time, harsher punishment to the appellant which is not permitted in law, since they were all involved in the same incident.

Failure to comply with a rule does not Ipso facto lead to the departmental inquiry being vitiated. In addition to non compliance, delinquent officer has to show prejudice caused to him.

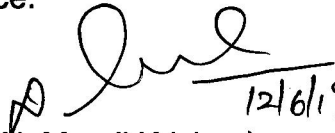
Shri S. Srinivas, CLA/GNT presented the judgement dated 9th May, 2019 delivered by the Central Administrative Tribunal, New Delhi in OA No.3970/2013 in the matter of Bhajanlal Vs. Ministry of Railways.

In this case, the applicant was working as SM and in terms of the provisions of Indian Railway Commercial Manual daily station earnings are required to be accounted for and remitted to the Divisional cash office. During inspection by team from Vigilance Directorate of Railway Board, conducted on 25.11.2006, it was detected that the applicant had not remitted the cash earnings for 29.06.2006 and 30.06.2006. Inquiry proceedings culminated in the removal of the applicant from service.

Contesting his removal, the applicant pleaded that the EO was a Vigilance Officer who could not have acted as EO in the interest of natural justice. It was also pleaded that the applicant was not allowed to cross-examine the witnesses. It has also been pleaded that the provisions of clause 9(21) of Railway Servants (Discipline & Appeal) Rules, 1968 have not been followed and lastly reasoned and speaking orders were not passed by the DA and AA

The Court observed that full opportunity was afforded to the applicant to defend his case and before concluding enquiry, the EO had put mandatory questions also to the applicant which pertained to the allegations. The applicant submitted his defence also and it is only thereafter that DA had issued punishment order. No prejudice has been caused to the applicant in this entire process. Thus, the Tribunal dismissed the OA as the same is devoid of merits.

Next meeting will be held on 21.06.2019. All the members are requested to come prepared to the CLA's meeting and present at least one case. Brief of the case may be emailed to loscrhq@gmail.com two days in advance.


12/6/19
(N. Murali Krishna)
Sr. Law Officer

G.265/V/IV/Misc./Meeting/2019

Date: 12.06.2019

To

All ADRMs, CCO/SC, PCPO/Hqrs, LO/P/Hqrs, LO/BZA,
LO/SC, All CLAs – for information please.