

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.439/1995  
Cuttack, this the 1st day of May, 2001.

Mr.E.K.S.Nair.	....	Applicant.
	-Versus-	
Union of India & Ors.	....	Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? **Yes**
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? **No**

(G.NARASIMHAM)  
MEMBER(JUDICIAL)

*(Signature)*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
1.5.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.439 of 1995.  
Cuttack, this the 1st day of May, 2001.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
A N D  
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUL.).

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Mr. E.K.S. Nair, Aged about 55 years,  
S/o. Late E.R.K. Nair, Chief Permanent  
Way Inspector, South Eastern Railway,  
At/Po/Town/Dist: Cuttack. .... Applicant.

By legal practitioner : M/s. P.V. Ramdas, P.V. Balakrishna Rao,  
Advocates.

-Versus-

1. Union of India represented through  
the General Manager, S.E. Railway,  
Garden Reach, Calcutta-43.
2. Divisional Railway Manager,  
S.E. Railway, Khurda Road,  
At/Po: Jatni, Dist. Khurda.
3. Senior DEN (Co-ordination), S.E. Railway,  
Khurda Road, At/Po: Jatni, Dist: Khurda.

.... Respondents.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

*Som*

In this Original Application, the applicant has  
prayed for quashing the punishment order dated 14.12.1994  
withholding his privilege passes and P.T.Os for two years  
1995 & 1996 (Annexure-3) and the order dated 2.5.1995 at  
Annexure-6 of the Appellate Authority rejecting the appeal  
on the grounds urged by him in his Original Application. By  
way of interim relief, applicant has prayed that pending  
hearing of the O.A., the impugned order at Annexures-A/3&A/6  
be stayed. On the date of admission of the Original Application

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on 4.8.1995, the punishment order at Annexure-A/3 was stayed. The applicant had come up in December, 1995 stating that even though the order was stayed and he had applied passes to go to his native place at Ernakulam, passes were not issued to him and certain orders were passed by the Tribunal in their order dated 4.12.1995. It is not necessary to go further into this aspect of the matter. Respondents have filed counter opposing the prayer of applicant. No rejoinder has been filed.

2. We have heard Mr. P. V. Ramdas, learned counsel for the Applicant and Mr. D. N. Mishra, learned standing Counsel for the Respondents and have also perused the records.

3. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. From the pleadings of the parties it appears that a minor penalty proceedings were initiated against the applicant in Memo dated 4.10.1994. Applicant has not enclosed the charge but from the counter filed by the Respondents, it appears that the charge was that while the applicant was working as CPWI in charge at Cuttack, he did not accompany the Track recording Car (in short T.R.C.) on 14.9.1994 and 22.9.1994 in UP line and DN line in his section even though he was instructed to do so in letter dated 7.9.1994. Applicant in his explanation stated that in the past the programme of implementation of Track Recording Car was to be meticulously followed but later on there were instances of abrupt cancellation of the programme which could be known only after the applicant reached the Bhadrak or Khurda resulting in loss of mandays of the PWIs including the applicant. Applicant has stated that in the instant case, for these two days no confirmation

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message about the actual timing of TRC was received .He was engaged in Stock verification and therefore, his absence does not wilful. Considering his explanation, the punishment referred to above, was imposed on him. Applicant has stated that with his various grievances, he had earlier approached this Tribunal in two other Original Applications 64/1989 and 190/90 where his prayers were allowed and because of this, as a vindictive measure, Departmental proceedings have been initiated against him. For the present purpose, it is not necessary to refer to all the averments made by the Respondents in their counter. These will be taken note of while considering the submissions made by learned counsel for both sides. Before doing that it is to be noted that in matter of disciplinary proceedings, the scope of interference by the Tribunal is very limited. The Tribunal can only interfere in such matters, where reasonable opportunity have not been given to the charged official or principles of natural justice have been violated or if the findings are based on no evidence or are patently perverse. Submission made by learned counsel for both sides are to be considered in the context of the above well settled position of law.

4. From the pleadings of the parties it does appear that the applicant has not denied that on the two dates mentioned above, he did not accompany the TRC. Respondents have pointed out that accompanying the TRC is one of the vital duty of the PWI. This run is conducted for helping the maintenance staffs in knowing detail, deficiency in tracks structure and therefore, the applicant's presence as incharge

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CPWI was very much essential to know defect of track which are needed to be rectified as well as to note the important instructions related to track maintenance which are given by the engineering officials on the spot. From the above, we find that the fact that the applicant did not accompany the TRC on the two days is admitted by the applicant. His explanation was considered and not found satisfactory and the above punishment has been imposed on him. In view of this, it is not possible to hold that the punishment is based on no evidence or are patently perverse. Applicant has not urged that he has been denied any reasonable opportunity or principles of natural justice have been violated. Respondents have pointed out that the proceedings have nothing to do with the two earlier cases and the Railway Administration have taken all steps to implement the orders of this Tribunal in those two O.As. In consideration of the above, we find no scope for interference in the punishment order and the order of the Appellate Authority. These prayers of the applicant are accordingly rejected.

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5. Mr. Ramdas, learned counsel for the applicant submitted that by virtue of the stay order of this Tribunal, applicant had availed passes for the two years 1995 and 1996. The applicant has since retired and gone back to his own state, Kerala and is living a retired life. As a retired Railway employee, he is entitled to pass as per rules. It was submitted by learned counsel for applicant that final result in the O.A. should not deprive the applicant of his ~~past~~ retirement benefits of availing of passes. We find that ~~this~~ prayer is quite reasonable.

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Now that the applicant has already retired, he is entitled to passes as per the Rules applicable to the retired Railway Employees and because of the punishment imposed, while he was in service, his entitlement to get passes as a retired railway employee can not be jeopardised. In view of the above, while we reject the prayer of applicant for quashing Annexures-A/3 and A/6, we direct the Railway Authorities that by way of rejection, they should not deprive the applicant from his entitlement of passes as a retired Railway employee in the retirement period.

6. With the above observations and directions, the Original Application is disposed of. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN

KNM/CM.