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O.A.No.604/2009

ORDER DATED 2nd FEBRUARY, 2010

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)
Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Sh. B.S. Tripathy, Ld. Counsel for the Applicant and Sh. S.K. Ojha, Ld. Standing Counsel for the Respondents (Railways) on notice:

2. Challenging the minor penalty awarded against the applicant the present Original Application has been filed. It has also come out in evidence that the applicant had appealed on 03.11.08 as per Annexure-A/13, which is now pending before the Senior Divisional Commercial Manager (Respondent No.4). We have gone through the contentions now raised in this O.A. and also heard the Ld. Counsel for the parties. We are of the view that since the punishment awarded is the subject matter of appeal, this Tribunal is not inclined to intervene with the matter at this stage. However, it is only proper for the Respondent No.4 to consider the appeal and pass appropriate orders thereon within a reasonable time, if it is not disposed of till date.

3. It is brought to the notice of the Tribunal that the present Senior Divisional Commercial Manager (Respondent No.4) who is suppose to consider the appeal of the applicant, is not in a position to do so as the said Respondent

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No.4, while functioning as Divisional Commercial Manager (Respondent No.6), had passed the impugned order of punishment, being the Disciplinary Authority. We have considered the above submissions. Having regard to the peculiar facts and circumstances of the case that the present appellate authority himself had awarded the punishment being the disciplinary authority, in the fitness of things, we direct Respondent No.3, ADRM to consider and dispose of the appeal dated 03.11.2008 (Annexure-A/13) treating the same to have been addressed to himself, within a period of 45 days of the receipt of this order. *on being transmitted by R.4.*

4. Applicant is directed to furnish a copy of this order along with copy of the O.A. before Respondent No.3 ADRM for compliance of our direction.

5. With the above observation and direction, we dispose of the O.A. at the stage of admission itself. No costs.

h.kapil
MEMBER (A)

U.K appn
MEMBER (J)

K.B.