

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.42/04

Friday this the 4th day of February 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

R.Manickavasagam,
S/o.late D.Ramalingam,
Executive Electrical Engineer/Construction/
Southern Railway/Ernakulam Junction,
Residing at : No.12 Sterling Apartment,
Kadavanthra, Kochi - 17.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town P.O.,
Chennai - 3.
2. The Chief Electrical Engineer,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai - 3.
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum - 14.

Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 4th February 2005
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant Executive Electrical Engineer/Construction, Southern Railway, Ernakulam has filed this application aggrieved by an adverse entry in the ACR for the year ending 31.3.2003 communicated to him by letter dated 17.9.2003 (Annexure A-1) wherein the entry that the officer could take more interest in field work has been communicated and the rejection of his representation against it by Annexure A-2 order. The applicant was working as Divisional Electrical Engineer of Southern Railway, Trivandrum Division between 1.11.2001 and 21.12.2002 and on transfer to the Construction Organisation got himself relieved

on 21.12.2002 and assumed charge in the Construction Organisation on 2.1.2003. He was served with Annexure A-1 communication regarding the adverse entry which according to him was not warranted taking into account the dedication and interest which he had bestowed on field work, that the entry was made out of vengeance and malafides and that Annexure A-2 order has been issued without any application of mind at all to what is submitted by the applicant in his representation Annexure A-3 against the undeserving adverse entry. With these allegations the applicant seeks to set aside the impugned orders, for a declaration that Annexure A-1 and Annexure A-2 are not based on relevant consideration and without application of mind and for consequential benefits.

2. The respondents in their reply statement contended that when the applicant was called upon to urgent duty on 21.12.2002 in a situation arising out of an accident he did not report for duty but instead got himself relieved and that this attitude of the applicant has necessitated making the adverse entry with a view that the applicant would improve himself and that when the representation submitted by the applicant was considered with reference to the background materials it was found necessary to maintain the adverse entry and that the applicant is not entitled to the relief sought.

3. In the rejoinder the applicant has stated that he was not called upon to perform urgent duty and that the entry is totally unwarranted and that it has been made without bonafides. It is also been stated that no officer has ever informed him of any shortcoming.

4. I have carefully considered the facts and circumstances which has come out in the pleadings and the records available and have heard Shri.T.C.Govindaswamy, learned counsel of the applicant and Ms.Deepa on behalf of the learned counsel of the respondents. The counsel argued that the applicant having been relieved from the open line on 21.12.2002 the entry in the ACR that he did not report for duty in the Division on 21.12.2002 is not justified. The counsel stated that the fact that no explanation has ever been called from the applicant prior to the entry in the ACR itself would show that the entry has been made malafides. Learned counsel of the respondents, on the other hand, argued that no specific allegation of malafides has been made against the Reporting Officer. He further argued that the very fact that the applicant regardless of the emergent situation resulting from an accident got himself relieved on 21.12.2002 shows the lack of his devotion to duty.

5. Giving the fact situation anxious consideration I do not find any reason to interfere with the impugned orders. That Annexure A-2 does not contain the reason for decision is no reason to set aside Annexure A-2. In disposing of a representation against an adverse entry the competent authority has to consider the entire aspects after calling all necessary materials and take decision. However there is no requirement of writing a detailed judgment adverting to all the facts which are mentioned in the representation. Disposal of a representation against an adverse entry in the ACR is really a routine administrative order. The only requirement is that the decision should be taken after examining the relevant materials in a fair

2

manner. I find that the competent authority has discharged the function fairly and that the order does not suffer from any infirmity justifying judicial intervention.

6. In the result the application fails and the same is dismissed leaving the parties to bear the costs.

(Dated the 4th day of February 2005)



A.V. HARIDASAN
VICE CHAIRMAN

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