

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 424 OF 2009

Friday, this the 4th day of December, 2009

CORAM:

**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

V. Rajendran, Salaried Commissioner Bearer
(Under removal), S/o. N. Venkitachalam,
2/204, Sovadipalayam, Pudur, Nanjai Uthukkudi P.O.,
Erode-638 104.

Applicant

(By Advocate : Mr. Siby J Monippally - Not present)

Versus

1. Union of India, represented by General Manager,
Southern Railway, Park Town, Chennai.
2. The Senior Commercial Manager, Southern
Railway, Park Town, Chennai.
3. Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.

Respondents


(By Advocate : Mr. Thomas Mathew Nellimoottil)

The application having been heard on 04.12.2009, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. George Paracken, Judicial Member -

The applicant has filed this OA aggrieved by Annexure A-4 order dated 13.8.2002 which was issued purportedly in compliance with the direction of the Hon'ble High Court of Kerala in WPC No. 20793 of 2007 dated 6.7.2007.



2. When the matter was listed for the first time before this Court on 24.6.2009 even though the applicant or his counsel was not present we have issued notices to the respondents. Thereafter, this matter was listed before the Registrar's Court for completion of pleadings on 10.8.2009, 14.9.2009, 19.10.2009 and 26.11.2009. However, on none of these occasions either the applicant nor his counsel ^{was} ~~for~~ present.

3. In view of the aforesaid, we are of the considered opinion that the applicant nor his counsel is interested to prosecute this case. Accordingly, this OA is dismissed in default. There shall be no order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(GEORGE PARACKEN)
JUDICIAL MEMBER

"SA"

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.424/2009

Friday this 23rd day of July, 2010

CORAM:

HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER

HON'BLE MRS. K.NOORJEHAN, JUDICIAL MEMBER

V.Rajendran, Salaried Commission Bearer,
(Under removal) S/o N.Venkitachalam,
2/204, Sovadipalayam, Pudur,
Nanjai Uthukkudi P.O., Erode-638 104.

.. Applicant

By Advocate : Sri Siby J.Monippally

vs.

1. Union of India represented by
General Manager,
Southern Railway, Park Town, Chennai.

2. The Senior Commercial Manager,
Southern Railway,
Park Town, Chennai.

3. Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat. ... Respondents

By Advocate : Mr.Thomas Mathew Nellimoottil

The Application having been heard on 14.07.2010, the Tribunal on

23.07.10 delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN,JUDICIAL MEMBER:

The applicant has filed this Original Application challenging
the order dated 13.11.2008, a copy of which is produced as



Annexure A4 passed by the Senior Commercial Manager, Headquarters Office, Personnel Branch, Chennai of the Southern Railways. The applicant prays that the said order may be quashed and to issue a declaration to the effect that the applicant is legally entitled to get himself reinstated in service with back wages.

2. The fact matrix which led to the filing of the O.A. are that, the applicant claims that he was working as a Commission Bearer at VRR/TPJ from 10.2.1976 to 6.3.84 and his services were terminated without serving a notice to him and in violation of Art. 311 of the Constitution of India. The applicant has also got a case that a similar claim put forward by one P.Viswanathan was considered by this Tribunal in O.A.No.916/2000 and that O.A. has been allowed by this Tribunal. On the basis of the said order the applicant himself filed Writ Petition(C) No.20793/2007 in which the Hon'ble High Court of Kerala directed the General Manager, Southern Railway to pass appropriate orders in the representation filed by the applicant dated 7.9.2006 in the light of the order passed by this Tribunal in O.A. No.704/2003. In pursuance of the said directions issued by the Hon'ble High Court of Kerala, the present impugned order has been passed by the Senior Commercial Manager, which is under challenge in the present O.A.




3. The O.A. has been admitted by this Tribunal and notice ordered to the respondents. In pursuance to the notice ordered by this Tribunal a reply statement has been filed for and on behalf of the respondents on 15th March, 2010. The stand taken in the reply statement is that the name of the applicant has been recorded as Sl.No.20 of the list of Commission Vendors for whom salary has been arranged from 1.11.1986 at Trichy Division. It is also stated in the reply statement that the Chief Commercial Manager/Southern Railway/Madras has addressed to the Chief Personnel Officer, Madras on 17.11.1986, the name of the applicant was also referred in a covering letter regarding the payment of arrears of salary. As per the enclosed list, the name of the applicant has been entered as Sl.No.20. Further it is stated in the reply statement that the applicant had entered service of catering department of the Southern Railway as a Commission Bearer on 10.3.1976 in Madurai Junction. But though these statements were there in the averments, the applicant has not submitted any proof for that and there is no records to show that the services of the applicant has been terminated by any order or any proceedings. Further it is stated that the reasons quoted by the General Manager, Southern Railway to arrive the conclusion that the applicant had produced any valid evidence to prove that he has worked as Commission Bearer except two certificates

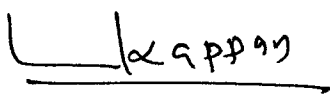
obtained at a later date from the then catering supervisor. No document is produced by the applicant to support his case that his services were terminated without any notice.

4. We have heard the counsel appearing for the applicant as well as the counsel appearing for the respondents and we have also perused the records produced by the parties. The case set up by the applicant is that he was working as a Commission Bearer at the Southern Railway till 1986 and as per the judgment of the Apex Court in T.I.Madhavan vs. Union of India passed in Writ Petition No.191/1986 being a salaried Commission Bearer, the applicant is entitled for reinstatement in service with all back wages. Once he approached the Hon'ble High Court of Kerala in Writ Petition No.20793/2007 after having considered the facts and circumstances of the case, the Hon'ble High Court directed the General Manager to consider the case of the applicant especially in the light of the fact that nine of his juniors have been absorbed who were working as Commission Bearers it is an admitted case before us that as per the Apex Court judgment all the Commission Bearers are entitled for their regular appointment and if so, it is the duty of the Department to find out the claim of the applicant is correct or not. For that purpose the Hon'ble High Court of Kerala has directed the General Manager to pass appropriate orders on his representation. But by the present impugned order the claim of



the applicant has been rejected on the ground that the applicant has not produced any document regarding the termination and the reason for such termination of his service. But it is an admitted fact that the General Manager has issued a letter certifying the factum of employment of the applicant at VRR/TPJ from 10.2.1976 to 6.3.1984 as certified by the supervisor, TPJ. If the principle adopted by the Apex Court in T.I.Madhavan's case is followed, the irresistible conclusion is that as per the directions contained in the judgment of the Apex Court or the stipulations or conditions fixed by the Apex Court, the applicant is entitled to be considered for reinstatement. If so, the case of the applicant requires reconsideration by the authorities. Hence the O.A. succeeds and we are directing the respondents, namely the Senior Commercial Manager, Southern Railway, Park Town, Chennai and the Senior Divisional Personnel Officer, Southern Railway, Palghat Division to reconsider the case of the applicant and pass appropriate orders thereon as early as possible, at any rate within 3 (three) months from the date of receipt of a copy of this order. Accordingly Annexure A4 is quashed with the above directions and the O.A. is allowed to the extent indicated. No order as to costs.


(K.NOORJEHAN)
/njj/ MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Contempt Petition No. 117 of 2010 in
Original Application No. 424 of 2009

Wednesday, this the 5th day of January, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

V. Rajendran, S/o. N. Venkitachalam,
 2/264, Savadipalayam Pudur, N. Uthukkuli Dist.
 Erode.

Petitioner

(By Advocate – Mr. Siby J. Monipally – Not present)

V e r s u s

Sarala Balagopal, Senior Commercial Manager,
 Southern Railway, Park Town, Chennai.

Respondent

(By Advocate – Mr. Thomas Mathew Nellimoottil)

This petition having been heard on 05.01.2011, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

When the case was called, neither the petitioner nor his counsel is present. Heard the learned counsel for the respondent.

2. Annexure A-2 itself shows that pursuant to the order in OA No. 424 of 2009 the respondent have disposed of the representation of the petitioner. The correctness or otherwise of the order passed in the representation is therefore a matter to be adjudicated in an independent proceedings and not

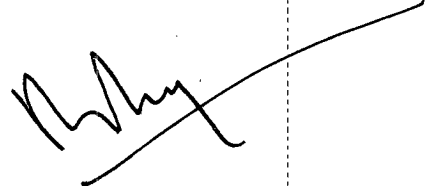


in this Contempt Petition.

3. In the circumstances, we close this Contempt Petition without prejudice to the right of the petitioner to challenge the Annexure A-2 order, if so advised.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

"SA"