

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.426/98

Wednesday, this the 30th day of August, 2000.

CORAM:

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

HON'BLE MR V.K.MAJOTRA, ADMINISTRATIVE MEMBER

K.Chandrasekharan,
(Relieving Station Master,
Southern Railway, Trissur),
Residing at Koolangattu House,
Thiruvazhaliad Post,
Palghat District.

- Applicant

By Advocate Mr PV Mohanan

vs

1. Union of India represented by
Secretary,
Ministry of Railways,
Government of India,
Rail Bhavan,
New Delhi.

2. The Chairman,
Railway Board,
New Delhi.

3. The General Manager,
Southern Railway,
Madras.

- Respondents

By Advocate Mrs Sumathi Dandapani

The application having been heard on 30.8.2000, the Tribunal on the same day delivered the following:

O R D E R

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

This litigation has a very long history. The applicant while working as Relieving Station Master, Trissur in the year 1972 was placed under suspension and a crime was

registered by the CBI against him for alleged misappropriation of a sum of Rs.324.50. The applicant was thereafter proceeded with departmentally and an order removing him from service was issued on 24.3.72. The appeal filed against the said order was dismissed on 4.5.72, but the revisional authority set aside the order of removal from service by order dated 6.2.75 directing a denovo enquiry to be held. Consequently, a denovo enquiry was held and again the same penalty of removal from service was imposed on the applicant by order dated 22.3.78. As the appeal and revision was unsuccessful, the applicant carried the matter before the High Court in Writ Appeal No.4034/79. The Writ Appeal was dismissed on 18.11.80. Another Writ Appeal No.176/81 was also dismissed. SLP filed by the applicant before the Supreme Court also was dismissed on 18.11.81. Ultimately, in the year 1990, the applicant came across A-2 refer report which the CBI had submitted before the Sessions Court stating that as there was no sufficient material to prosecute, the case was one for departmental action. Alleging that the refer report was not available to him during the earlier proceedings and therefore, the order of removal confirmed in appeal have got to reviewed, the applicant filed a review application on 31.12.90 under Rule 25 A of Railway servants Discipline and Appeal Rules. In the year 1992, as the applicant was informed that the review was disposed of by the President, the applicant filed O.A.801/95 which was disposed of permitting the applicant to challenge the order alleged to have been passed by the President(A-5 in this case). The applicant filed O.A.308/96. Noting that A-5

in this case which was produced in that case was not a proper speaking order, the O.A. was disposed of directing that a reasoned order may be given to the applicant. In obedience to the above direction, the impugned order A-7 has been passed by the President rejecting the review petition. Aggrieved by that, the applicant has filed this application seeking to have the A-7 set aside, for a direction to the respondents to reinstate the applicant in service with effect from 9.1.71 with consequential benefits and grant to him the pensionary benefits with effect from 22.2.90 reckoning the qualifying service from 6.8.1955 to 22.2.1990 and disburse the same with 12% interest as also to refund the deposit paid at the time of appointment to the tune of Rs.300/- and other benefits like bonus etc.

2. It is alleged in the application that as the disciplinary proceedings against the applicant was held on the same allegation for which the CBI registered a case against him in view of the refer report A-2, there was no sufficient materials on which the applicant could be held guilty and therefore the proceedings against the applicant as also the order of removal from service is unsustainable. A-7 order has been impugned on the ground that it is non-speaking, cryptic and passed without application of mind.

3. The respondents have filed a detailed reply statement.

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4. We have heard the learned counsel on either side at considerable length and have gone through the materials available on record.

5. The argument of the learned counsel of the applicant that the refer report which was made available to the applicant only in the year 1990 was a new material which if had been available to him earlier, the decision in the matter would have been different does not appeal to us at all. What is stated in A-2 is that the evidence available was not sufficient to proceed with prosecution of the applicant and the matter was one for departmental action. What was done by the Department was initiating departmental action against the applicant, for misconduct which resulted in imposing the penalty of removal from service. The proceedings and the penalty was scrutinised by the departmental appellate and revisional authorities as also by the courts including the highest court of the land. No infirmity was found with the proceedings or the order of penalty. Even if the refer report was available to the applicant during the course of the proceedings or thereafter, we are of the considered view that the decision would not have been different. The argument that the impugned order is bereft of application of mind is also untenable because cogent and convincing reasons have been stated for rejecting the revision.

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6. In the result, finding no merit the application is dismissed, leaving the parties to bear their own costs.

Dated, the 30th of August, 2000.

V.K.Majotra

V.K.MAJOTRA
ADMINISTRATIVE MEMBER

A.V.Haridasan

A.V.HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-2: True copy of the Report dated 15.2.75 by the CBI.
2. A-5: True copy of the proceedings produced in O.A. 801/95 by the respondents.
3. A-7: True copy of the proceedings dated nil in the name of President of India with covering letter dated 8.1.98.