

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 449/92

Wednesday, the seventeenth day of November, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. P.V. VENKATAKRISHNAN MEMBER (ADMINISTRATIVE)

C. Mohan
Assistant Station Master
Palghat Jn R.S., Palghat P.O.
By Mr. P. Sivan Pillai

Applicant

vs.

1. Union of India through the
General Manager,
Southern Railway Hqrs office
Park Town P.O., Madras-3
2. The Divisional Railway Manager
Southern Railway, Palghat Division
Palghat
3. Sr. Divisional Operating Supdt.
Southern Railway, Palghat Division
Palghat
4. Divisional Safety Officer
Southern Railway, Palghat Division
Palghat

Respondents

By Mr. M. C. Cherian

ORDER

N. DHARMADAN

The applicant who is at present working as Assistant Station Master is aggrieved by the penalty order Annexure A-8 dated 4.5.89 by which the punishment of reduction to the post of Assistant Station Master in the grade of Rs. 1200-2040 at Rs. 1200/- was imposed for a period of two years with recurring effect ~~and~~ loss of seniority. He has filed Annexure A-10 appeal against the penalty advice. According to the applicant, third respondent is the appellate authority. Instead of disposing of the appeal by the third respondent, second respondent passed Annexure A-11 under Rule 25 of the Railway Servants' D & A Rules, 1968 treating the same as review with the following conclusion:

"I have carefully gone through the proceedings of the DAR case as well as the present appeal

of the party. The party's SR has also been seen. The working of the party has deteriorated from 1985 onwards. He has not been showing adequate alertness on duty. This has ultimately culminated in the serious accident that has occurred on 14.1.89.

While some quarters have felt that the quantum of punishment imposed has not been adequate, taking all the circumstances into account, I have decided that the penalty need not be enhanced further. However, commensurate with the offence and its consequences on train running, there is no reason to review the punishment downwards. The punishment imposed stands justified and may remain unaltered."

2. We are satisfied that the second respondent has no power to consider the appeal which was filed by the applicant before the third respondent/ is admittedly, the appellate authority. The conclusion contained in Annexure A-11 also cannot be sustained. Since there is procedural irregularity, after hearing learned counsel for respondents we have decided to quash Annexure-A-11 order and dispose of the application with the direction to the third respondent before whom the appeal is pending. Accordingly, we quash Annexure A-11 and direct/third respondent to dispose of the appeal in accordance with law as expeditiously as possible, without any delay. Since learned counsel for the applicant submitted that the applicant may be permitted to supplement Annexure A-10 appeal adding further grounds if any and reasons, we are satisfied that this request can be allowed. Hence, we direct the applicant to submit additional grounds and reasons supplementing Annexure A-10 within the period of ten days from the date of receipt of the copy of this order.

3. The application is allowed as indicated above.

4. There shall be no order as to costs.

A. Venkatakrishnan
(P.V. VENKATAKRISHNAN)
MEMBER (ADMINISTRATIVE)

knn

N. Dharmadan
(N. DHARMADAN)
MEMBER (JUDICIAL)
12.11.93