

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.No.470/2008**

Thursday this the 14<sup>th</sup> day of August, 2008.

**CORAM:**

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE K.NOORJEHAN, ADMINISTRATIVE MEMBER**

B.Sivanandan,  
S/o Bhaskaran, Sr. Gate Keeper,  
Southern Railway, Varkala,  
Residing at: "Sivaganganilayam",  
Pramala, Pacha Paluvalli P.O.,  
Thiruvananthapuram – 6965 62.

Applicant

(By Advocate Shri M.P.Varkey)

**Vs.**

1. Union of India, represented by  
General Manager,  
Southern Railway, Chennai \_ 600003.

2. Assistant Divisional Engineer,  
Southern Railway, Ernakulam.

3. Senior Section Engineer/P/Way,  
Southern Railway,  
Kottayam – 686 501.

Respondents


(By Advocate Shri Thomas Mathew Nellimoottl)

The application having been heard on 14<sup>th</sup> August 2008,  
the Tribunal on the same day delivered the following:

**ORDER**

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

This application has been filed against the penalty order dated 23.10.06 imposed by the Senior Section Engineer, Permanent Way, Kottayam vide Annexure A-3. The applicant has already filed an Appeal at Annexure A-4 dated 15.11.2006 which, according to the applicant, has not so far been decided by the Appellate Authority, viz., Assistant Divisional Engineer, Southern Railway, Ernakulam. Under Section 21 of the AT's Act this Tribunal shall not ordinarily

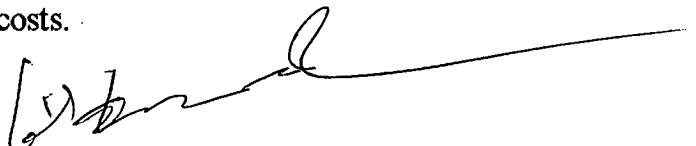


admit an application unless it satisfies that the applicant has availed all the departmental/legal remedies available to him under the relevant rules as to the redressal of grievance. As such, in the absence of the disposal of the Appeal by the Appellate Authority, it would not be appropriate to the Tribunal to take cognisance of the case even though provision exists for prosecution of case on the basis of deemed rejection under Section 20(2) of the Act.

2. We are thus of the considered view that the matter should have been dealt with by the Appellate Authority in the first instance. As such, this O.A. is disposed of at the admission stage itself with a direction to the Appellate Authority to dispose of the Appeal dated 15.11.2006 stated to have been filed by the applicant. This may be done within a period of two months from the date of communication of this order. Needless to mention that the applicant may avail of suitable legal remedies, in case he is aggrieved by the decision of the Appellate Authority.

3. O.A. is disposed of as above. No costs.

  
**K.NOORJEHAN**  
**ADMINISTRATIVE MEMBER**

  
**Dr.K.B.S.RAJAN**  
**JUDICIAL MEMBER**