

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.494/10

Wednesday, this 28th day of July, 2010

CORAM:

HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

V.Vijayan, aged 60 years,
S/o Velayudhan,
(Retd.Head Ticket Examiner/
Southern Railway/Shornur,
Residing at: Vypil House, Kozhikkunnu,
Mulangunnathukavu P.O.,
Trichur District.

..Applicant

By Advocate: Sri Mohana Kumar for Mr.T.C.G.Swamy

vs.

1. Union of India, represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai-3.

2. The Divisional Commercial Manager,
Southern Railway, Palghat Division,
Palghat.

... Respondents

By Advocate: Sri Thomas Mathew Nellimoottil

The Application having been heard on 21.07.2010, the Tribunal on 28.07.10

delivered the following:



ORDER

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

The applicant has filed this Original Application challenging the charge memo dated 22.6.2009 and further prayed for a direction to the respondents to grant all retirement benefits as he retired from service on 30.4.2010. The bare facts which are necessary for a decision of the O.A. are that, while the applicant was working as Head Ticket Examiner at Shornur railway station of the Southern Railway, Palghat Dn. he was served with a suspension order on 6.6.2007 passed by the second respondent in the O.A. , the Divisional Commercial Manager, Palghat Dn. Though the said suspension was revoked on 10.10.2007 the applicant was served with a memo of charges numbered as CON/J/V/524/V.V. Dated 22.6.209, a copy of which is produced and marked as Annexure A2 in the O.A. In pursuance to the receipt of Annexure A2 charge-memo, the applicant filed representation on 18.7.2009 explaining his case to the charge-memo. However, as the disciplinary proceedings is pending, the applicant superannuated on 30.4.2010 and as the applicant has not received his pensionary benefits, the applicant approached this Tribunal with the above prayers. When the application has been



admitted by this Tribunal, this Tribunal directed the Department, the respondents, to calculate the provisional pension of the applicant and disburse the same. On receipt of the orders passed by this Tribunal and the notice ordered, the respondents have filed a statement through the counsel appearing for the respondents. The stand taken in the statement filed on behalf of the respondents is that Annexure A2 memorandum of charge is for a major penalty and the disciplinary action is taken against the applicant consequent on a departmental check conducted by the vigilance wing of the Railways. On receipt of the charge memo, further it is stated that the applicant himself wanted an English version of the charge-memo by Annexure A3 representation and he was not in a position to cooperate with the Department for completion of the disciplinary proceedings. Further it is stated in the reply statement that, the vigilance wing had conducted a departmental check based on source information that some of the TTEs working in Train No.6604 Maveli Express are demanding and collecting more money than the actual Railway fare or collecting money as bribe. Hence the vigilance department on observing the movements of the applicant and other TTEs conducted a sudden check and found that the applicant had



concealed an excess cash of Rs.190/- at the time of check than the declared amount with him. It is further stated that the employees like the applicant had caused more loss to the Railways and are acting against the Conduct Rules and they are committing fraud to the Railways. On the basis of the report of the Vigilance, Annexure A2 charge memo has been issued to the applicant.

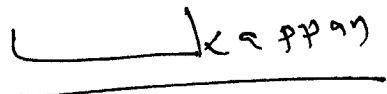
2. We have heard the counsel appearing for the applicant Mr.TCG Swamy and the counsel for the respondents Mr.Thomas Mathew Nellimoottil. The main grounds urged by Mr. Govinda Swamy in support of the averments contained in the O.A. are that there was delay in issuing the charge memo to the applicant and the Department is not giving the documents in English whereas all the documents were given to the applicant in Tamil with ulterior motive. Further case set up by the counsel for the applicant is that as per the allegations contained in the charge memo the incident is said to have taken place on 5.6.2007 and the charge memo has been issued very late and under the principles laid down in the decisions of the Apex Court in Andhra Pradesh vs. N.Radhakrishna reported in AIR 1998 SC 1833, the proceedings now initiated against the applicant

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noted the fact that when the O.A. has been admitted, this Tribunal has directed to disburse the provisional pension of the applicant. If so, it is the duty of the applicant to co-operate with the Department for completion of the proceedings. In the above circumstances we feel that there is no reason to interfere with Annexure A2 charge memo. However, we direct the respondents to complete the enquiry proceedings as early as possible at any rate within 6 months from the date of receipt of a copy of this order and the applicant shall co-operate with such disposal of the disciplinary proceedings. This, we feel, will enable the applicant to get his retiral benefits at the earliest. With the above observation and direction, the O.A. stands disposed of. No order as to costs.



(K. GEORGE JOSEPH)
MEMBER(A)



(JUSTICE K. THANKAPPAN)
MEMBER(J)

/njj/