

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.No.497/2005**

Friday this the 1st day of July, 2005.

**CORAM:**

**HON'BLE Mrs.SATHI NAIR, VICE CHAIRMAN**

1. Vijayakumaran Nair,  
Formerly Commercial Inspector-II,  
residing at Aikara House,  
Nedumprayar, Maramon P.O.,  
Pathanamthitta District.
2. K.Rajendran Nair,  
Formerly Peon, residing at  
Mavarathala Veedu, Killy,  
Kollodu P.O., Malayinkeezhu,  
Thiruvananthapuram District.                      Applicants

(By Advocate Shri Sasidharan Chempazhanthiyil)

**Vs.**

1. Senior Divisional Personnel Officer,  
Divisional Office, Southern Railway,  
Thycaud, Trivandrum Division.
2. Senior Divisional Commercial Manager,  
Divisional Office, Southern Railway,  
Thycaud, Trivandrum Division.
3. Divisional Manager,  
Thiruvananthapuram Division  
Southern Railway, Thycaud.
4. Union of India, rep. by its Secretary,  
Ministry of Railways, New Delhi.                      Respondents

(By Advocate Shri K.M.Anthru)

The application having been heard on 1st July, 2005,  
the Tribunal on the same day delivered the following:

**ORDER**

**HON'BLE Mrs.SATHI NAIR, VICE CHAIRMAN**

The applicants who were Railway employees, were suspended under Rule 5 of Railway Servants (D&A) Rules 1968, on the ground of pendency of criminal investigation. Charge sheets were issued on 25.9.1997, as they were convicted in S.C.No.187/1999 by Additional Sessions Court, Kottayam on 2.9.2000. The applicants

were awarded a penalty of removal from service. The 1st applicant was removed w.e.f. 23.7.2004 and the 2<sup>nd</sup> applicant was removed w.e.f. 5.8.2003. They have filed appeals before the competent authority which were rejected. In the meanwhile the Hon'ble High Court of Kerala allowed the Criminal case No.618/2000 filed by the applicants and set aside the conviction by order dated 20.1.2005. The applicants have submitted a representation to the Senior Divisional Commercial Manager(R2) seeking reinstatement in service as conviction has been set aside. The representations submitted by the applicants are A-4 and A-4(a). The applicants seek the relief of reinstatement and consequential benefits including regularisation of suspension period.

2. When the matter came up before the Bench, Shri Sasidharan Chempazhanthiyil, learned counsel appeared for the applicant and Shri K.M.Anthru, learned counsel appeared for the respondents. Learned counsel for the applicants stated that the representation submitted by the applicants are pending for the last three months and according to the Railway Servants Rules, they are eligible for payment of salary from the date of reinstatement and hence, they are being put to considerable hardship due to delay in taking a decision.

3. Learned counsel for the respondents submitted that the applicants have not produced the copy of the judgement of the Hon'ble High Court and that the matter is under examination.

4. Since the penalty of removal from service was awarded on the basis of the conviction by the lower court which has now been set aside by the Hon'ble High Court, the applicants are eligible for reinstatement in the service, as no appeal has been filed by the respondents. This being the rule position, respondents are directed to consider the representations(A4 and A4(a)) submitted by the applicants and take a decision and communicate the same to the applicants within a period of two months from the date of receipt of a copy of this order. The applicants are directed to furnish a copy of the

judgement of the Honble High Court to the respondents to enable them to examine the same.

5. O.A.is disposed of with the above directions at the admission stage itself. No costs.

Dated the 1st July, 2005.

Sathi Nair

SATHI NAIR  
VICE CHAIRMAN

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