

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 507 of 1995

Thursday, this the 6th day of July, 1995

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR SP BISWAS, ADMINISTRATIVE MEMBER

1. R Nagarajan,
S/o SV Ramasami Pillai,
Diesel Assistant, Office of the
Carriage & Wagon Superintendent,
Southern Railway,
Nagercoil Junction,
Residing at: No.47-C,
Railway Quarters, Nagercoil. .. Applicant

By Advocate Mr. TC Govindaswamy

Vs.

1. Union of India through
the General Manager,
Southern Railway,
Park Town PO, Madras-3.
2. Senior Divisional Mechanical Engineer,
Southern Railway,
Trivandrum Division, Trivandrum-14.
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum Divisional Office,
Trivandrum-14.
4. Assistant Personnel Officer(Mechanical)
Southern Railway,
Divisional Office,
Trivandrum.14.
5. G Sudhir,
Goods Driver,
Carriage & Wagon Superintendent's Office,
Southern Railway,
Ernakulam. .. Respondents

By Advocate Mr. PA Mohammed (R 1 to 4)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks to quash A4, A7 and A11 orders, cancel-
ling a punishment imposed on him, a charge sheet issued
consequently and an order rejecting a representation made by
him, in that order.

2. Proceedings were initiated for imposing a major penalty

against applicant by the Divisional Mechanical Engineer. However, the procedure for minor penalty was followed and a minor penalty was imposed. Thereafter by A4 that minor penalty was cancelled and a fresh charge sheet (A-7) was issued.

3. Learned Counsel for applicant submitted that A4 is issued in violation of the principles of natural justice, as it was not preceded by a show cause notice. We cannot agree. In substance, A4 cancels a penalty, though it contains the threat of a future enquiry. It envisions nothing against the applicant, as cancellation of a penalty is not to his detriment. A7 is the charge sheet proposing another enquiry. Whatever defences the applicant has, must be raised at stages following A7. At present, we do not propose to consider the challenge raised to the course adopted by respondents in ordering a fresh enquiry. We would only say with reference to an order placed before us by Counsel for Railways (R-1), that it gives no clear indication of the provision of law under which the power is exercised or the nature of the exercise contemplated. As rightly pointed out by Learned Counsel for applicant Sections 25 and 25(A) contemplate different courses of action and unless the nature of the action proposed is revealed to the delinquent, he will be seriously prejudiced.

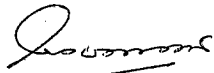
4. Applicant has another grievance that his claim for promotion had been overlooked under the assumption that he was undergoing a punishment. If A4 and the stand of the Railways is to be accepted, he comes under a cloud only after 3-1-1995, as the punishment imposed has been wiped out,

..3..

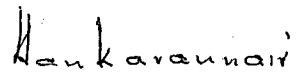
making it non est. If applicant was eligible to be considered for promotion on a date prior to 3-1-1995, he shall be considered.

5. We dispose of the application as aforesaid. Parties will suffer their costs.

Dated the 6th July, 1995



SP BISWAS
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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