

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 523 OF 2011

Thursday, this the 21st day of July, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

C.K.Vergheese
Executive Engineer (Construction/HQrs)
Office of the Chief Engineer (Construction/HQrs)
Southern Railway, Ernakulam Junction
Cochin – 682 016
Permanent address :No.D-19, New Castle Towers
Pipeline Road, Ambalamukku, Peroorkada PO
Thiruvananthapuram – 695 005 ... Applicant

(By Advocate Mr. TCG Swamy)

versus

1. Union of India represented by the
General Manager
Southern Railway
Headquarters Office, Park Town PO
Chennai – 600 003
2. Shri V Subramanyam
Retired Controller of Stores & Inquiry Officer
Residing at No.4/120, Medavakkam Tank Road
Flat No.UG-3, Brindavan Apartments
Ayanavaram, Chennai – 600 023
3. The Secretary to the Government of India
Ministry of Railways, Rail Bhavan
New Delhi - 110 001 ... Respondents


(By Advocate Mr. Thomas Mathew Nellimoottil (R1-3))

The application having been heard on 21.07.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant is working as Executive Engineer in the Construction Organisation of Southern Railway at Ernakulam Junction. He is facing with a disciplinary action and enquiry is being held into the



charges levelled against him. He has prayed for certain documents for defending his case which was denied by the authorities. His contention is that in the enquiry held against a co-delinquent, the very same documents asked for by him has been directed to be supplied by the Madras Bench of the Central Administrative Tribunal. But in the case of the applicant, the Department took a stand that the said order of the Tribunal will apply only to the case of the applicant therein, and cannot be extended to the present applicant before us. Annexure A-1 is the copy of the order rejecting the request of the applicant.

2. According to the applicant, while he was working as Executive Engineer (Construction), Trivandrum he was issued with Annexure A-2 alleging that he had committed gross misconduct in the matter of provision of sand piles under Agreement No.437/CN/99 dated 17.11.1999 awarded to one Shri Sajeew Mathew. The applicant wanted to peruse certain documents enabling him to file the reply. He was permitted to peruse the documents and he noticed a number of irregularities in the document supplied to him for perusal. Pointing out the same, he submitted a reply on 30.07.2001, a copy of which is produced as Annexure A-3. Annexure A-3 was responded to by a letter issued by the 1st respondent, a copy of which is produced as Annexure A-4. Therein, the applicant was permitted to peruse the original documents by the Sheristadar of the Hon'ble CBI Court. It is contended that on the very same set of facts, enquiry is being held against the co-delinquent and there is criminal case also pending before the CBI Court. The Department appointed an Enquiry Officer and also a Presenting Officer. Preliminary inquiry was held 14.01.2008. The applicant

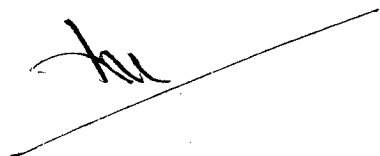


submitted list of additional documents and for the purpose of defending his case. Representation were filed before the authorities.

3. When the case came up for admission, we directed the respondents to file reply, if any, in case they have objections to the reliefs sought for since prima facie where an order was passed by the coordinate Bench of this Tribunal to furnish the documents sought for, there cannot be any serious objection to grant the same relief in the matter of applicant also. But except to take time, the respondents did not file any reply statement till date. The matter was posted to 15.06.2011, 29.06.2011 and to this date. By an interim order we had directed to keep the enquiry proceedings in abeyance. The same was extended from time to time. We had recorded the undertaking of the respondents that the inquiry will stand adjourned. Counsel appearing for respondents seeks further time to file reply statement.

4. We are of the opinion that the enquiry cannot be held up for long and the delay to dispose of the matter shall not prejudicially affect the right of parties and therefore, we think it appropriate to dispose of the same with the available materials on record after hearing the parties.

5. The co-delinquent has filed an application OA 232/10 before the Madras Bench of the Tribunal seeking to set aside the order rejecting his request for furnishing copies of certain documents. The Tribunal did not go into the merits of the case and directed the 1st respondent to supply the copies of documents as sought for by the applicant as per representation dated 05.03.2009. It is observed that if the documents are voluminous or



for any other reasons, the 1st respondent is not in a position to supply copies of documents, the applicant may be permitted to peruse the same by giving sufficient time to the applicant. Therefore, in the case of one co-delinquent there is already an order passed by the Tribunal partly allowing his relief. In respect of the same, a different stand cannot be taken by the Department. As a matter of fact, so long as the order passed by the Madras Bench, Annexure A-11 is not under challenge before any competent higher authorities and obtained a stay, normally we would expect the respondents to follow the same order in the case of the applicant also. In so far as that has not been done and the request of the applicant has been rejected by Annexure A-1, we are of the opinion that the applicant is also similarly situated and is entitled for the same relief.

6. Accordingly, we direct the 1st respondent to supply the copies of documents as per his representation, Annexure A-8 dated 05.03.2009. If the documents are voluminous the 1st respondent is not in a position to supply copies of documents, the applicant may be permitted to peruse the same by giving sufficient time to the applicant.

7. OA is disposed of as above. No costs.

Dated, the 21st July, 2011.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS