

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.535/2001

Monday this the 25th day of June, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

T.K.Sivadasan,
S/o late A.Kunchiraman,
Office Superintendent Gr.II
Office of the Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat residing at : 175A Railway Colony,
Olavakkode, Palghat District. ...Applicant

(By Advocate Mr. TCG Swamy)

V.

1. Union of India, represented by
the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai.3.
2. The Chief Personnel officer,
Southern Railway,
Headquarters Office,
Park Town PO,
Chennai.3.
3. The Divisional Railway Manager,
Southern Railway,
Palghat Division,
Palghat.
4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat. ...Respondents

(By Advocate Mrs.Sumati Dandapani)

The application having been heard on 25.6.2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN


The applicant who has been promoted as Office
Superintendent Gr.II with effect from 15.6.94 is
aggrieved by the fact that a show cause notice dated
18.6.2001 has been issued proposing to revert him as
Head Clerk pursuant to a review of the promotions made
in terms of the Judgment of this Bench of the Tribunal

contd...

in OA 53/99 to which the applicant was a party, the 5th respondent. The applicant has been by this notice informed that in terms of the Judgment of the Supreme Court in Ajith Singh and others--II Vs. State of Punjab and others (1999)7 SCC. 203 it appears that the promotion given to him was in excess of the quota reserved for Scheduled Castes/Scheduled Tribes and therefore, promotion being erroneous the same has got to be reviewed and the applicant reverted. The applicant has been given ten days' time to submit his representation, if any against the proposal for reversion. The applicant while admitting that he was a party to the OA 53/99 wherein a review of the promotion made in terms of judgment of the Apex Court in Ajith Singh II's case was ordered, the Senior Divisional Personnel Officer who was issued the show cause notice Annexure.A1 is not competent to issue the show cause notice in view of the provisions contained in Paragraph 221 as also paragraph 228(II)(c) of the Indian Railway Establishment Manual.

2. We have gone through the application and the annexures appended thereto and have heard the learned counsel of the applicant and Smt.Sumati Dandapani, learned counsel appearing for the respondents. We do not find prima facie any infirmity in the impugned ~~order~~ show cause notice because the show cause notice is not a decision to remove the applicant or revert him but only to show cause why he should not be reverted. The provisions contained in the Indian Railway Establishment Manual relied on by the learned counsel of the applicant only stipulates that for cancellation

contd....,




of erroneous promotion approval of the next higher authority who appointed the incumbent is required. It is nowhere stated that the show cause notice be issued by that authority. We therefore, do not find, prima facie anything in this application for admission and further deliberation.

3. In the result, the application is rejected under Section 19(3) of the Administrative Tribunals Act.

Dated the 25th day of June, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

(s)