

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.549/03

Tuesday this the 1st day of February 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

P.Nithyanandan,  
S/o.late P.Krishnan,  
Leave Reserve Ticket Collector/  
Sleeper/Palakkad.  
Residing at : "Krishna Prabha",  
Giri Nagar, Near N.S.S. Engineering College,  
Palakkad. Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the General Manager, Southern Railway, Chennai - 3.
2. The Chief Commercial Manager, Southern Railway, Chennai - 3.
3. The Additional Divisional Railway Manager, Southern Railway, Palghat Division, Palghat.
4. The Senior Divisional Commercial Manager, Southern Railway, Palghat Division, Palghat. Respondents

(By Advocate Mrs.Sumathi Dandapani)

This application having been heard on 1st February 2005 the Tribunal on the same day delivered the following :

O R D E R

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

Shri.Nithyanandan, Leave Reserve Ticket Collector, aggrieved by an order imposing on him a penalty of reduction of pay from Rs.4670/- to Rs.4510/- in scale Rs.3050-4590 for a period of 36 months with recurring effect by the disciplinary authority, which was modified to one of reduction of pay for a period of one year by appellate authority by Annexure A-3 order which is maintained by the order of the revisional authority, has filed this application seeking to set aside these orders with

consequential benefits. It is alleged in the application that the charges against the applicant were baseless, that even though the appellate authority was convinced that none of the charges were established the penalty has been maintained although on a reduced level and that the order of the disciplinary authority, appellate authority as also of revisional authority are without application of mind. It has further been alleged that the revisional authority issued a notice (Annexure A-5) calling for explanation as to why penalty should not be enhanced and what was awarded by the disciplinary authority should not be maintained, that after the applicant submitted his explanation the revisional authority found that the appellate authority was right. The applicant pleads that since the charges have not been established as has been held by the appellate authority the order of penalty be set aside.

2. We have gone through the pleadings and materials on record. The disciplinary authority has in its order Annexure A-2, on the basis of what is stated in inquiry report, held the applicant guilty of the charges and imposed on him penalty of reduction of pay from Rs.4670/- to Rs.4510/- in scale Rs.3050-4590, for a period of 36 months with recurring effect and appellate authority considered the grounds raised in the appeal threadbare and in its detail order found that the charges were not established. It is profitable to quote the last paragraph of the appellate order :

From all the above, it is quite clear that the charge of (i) dis-proportionate assets (to known sources of income), (ii) the allegation about money lending and (iii) the charge about resorting to the additional construction (without waiting for formal permission) are all leveled

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against the employee without proper basis. His record of service has also been verified suo motu by the undersigned and found to be good and without any such problems or proclivities so far. A bad element could not have remained good up to this point of time, without getting into enough problems all along his career so far and so consistently.

3. Since the appellate authority was of the considered view that the charges were levelled against the applicant without proper basis, the penalty awarded to the applicant should have been set aside, for, if there was no basis for the charge, there was no justification for imposing any penalty. A valid charge and a finding in a duly held enquiry that the charge has been proved would warrant award of a penalty. It was quite unfortunate that the appellate and even the revisional authority who upheld the appellate order, lost sight of this basic principle. It cannot also be seriously argued that independant of the appellate authorities observation and finding the revisional authority on an appraisal of evidence held the applicant guilty because the revisional authority has only endorsed the finding arrived at and penalty awarded by the appellate authority in execise of revisional powers.

4. In the result the application is allowed and the imugned orders are set aside with consequential benefits to the applicant. No costs.

(Dated the 1st day of February 2005)

H. P. DAS

ADMINISTRATIVE MEMBER

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A. V. HARIDASAN  
VICE CHAIRMAN