

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.583 of 1996

Wednesday this the 29th May, 1996.

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

C.P.Prasad, Permanent Way Inspector,
(Ultra-sonic Flaw Detector)
Southern Railway, Shornur,
residing at Railway Quarters No.52/SRR,
Shornur.1.

.... Applicant

(By Advocate Mr. T.C.Govindaswamy)

Vs.

1. Union of India through the Secretary
to the Govt. of India, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Divisional Personnel Officer,
Southern Railway, Palghat Division
Palghat.
3. The Executive Engineer, Construction,
Southern Railway, Ernakulam Jn.Ernakulam.
4. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum.14.
5. The Divisional Railway Manager,
Southern Railway,
Trivandrum Divn. Trivandrum.14.
- 6.The Chief Personnel Officer,
Southern Railway, Park Town PO,
Madras.3.

.... Respondents

(By Advocate Mr. P.N.Santhosh for KV Sachidanandan)

The application having been heard on 29th day of May, 1996
the Tribunal on the same day delivered the following:

O R D E R

Applicant, a Permanent Way Inspector under the
Railways, challenges A3 order passed by the Divisional
Personnel Officer, Palakkad upholding the "damages" imposed
on him.

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2. Certain amounts were recovered from applicant, without informing him the basis therefor and upon that, he moved this Tribunal by O.A.219/96. A person cannot be deprived of money belonging to him without notice. Hence we directed respondent Divisional Personnel Officer to examine the matter, and pass appropriate orders. He did this by A3 order. Prima facie, the Divisional Personnel Officer has taken much pains and passed a reasoned order. But unfortunately, he has made certain statements of law such as that no notice is necessary before making recoveries from the salary of an officer. This is not consistent with the declaration of law made by the Apex Court. This has given a handle to the applicant to challenge his order..

3. Respondent Divisional Personnel Officer noticed that applicant was transferred from one Division to another, that he did not make a request for retention of quarters and that rules did not enable him to retain the quarters thereto retained by him. It is after noticing these relevant aspects that he went on to say that notice is not necessary, relying on a decision of the Bangalore Bench of the Tribunal to support his contention. It is settled law in this country that the rule 'audi alteram partem' requires adherence before passing an order causing deprivation or detriment to a citizen/official. Atleast, the official should know that 'damages' are being recovered. It cannot be assumed that all that a party does is infalliable. If damages had already been recovered (for example) the affected

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party can say so. Likewise, if the identity of the party is wrong, he can say so. There could be other defences, as well. There is no power at large, to make recoveries without even stating on what score that is being done.

4. Be that as it may, it is clear that respondent Divisional Personnel Officer acted bonafide in passing the order. If the applicant is aggrieved by the conclusion, he may challenge the same before the Chief Personnel Officer (6th respondent). Applicant may state his case raising each ground distinctly and seek redress. The Chief Personnel Officer will consider the same and pass appropriate orders thereon. Till such time recovery of the amount in question will be held in abeyance.

5. Original application is disposed of as aforesaid. No costs.

Dated the 29th day of May, 1996.

Chettur Sankaran Nair
CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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LIST OF ANNEXURE

Annexure A3: A true copy of the letter No.J/P O.A.291/96
dated 30.4.96 issued by the second respondent.