CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 616/05

Friday, this. The 23rd day of November, 2007.

CORAM

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

C.Krishnanakutty,
s/o P.T.Chami,
Ex. Cabin Man-II,
Southern Railway, Ullal R.S. & P.O.
Residing at: 'Wariams', SDPY Road,
Palluruthy, Kochi-6. ....Applicant

(By Advocate Mr TC Govindaswamy)

V.

1 Union of India represented by
the General Manger,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Chennai-3.

2. The Senior Divisional Operations Manager,
Southern Railway,
Palghat division,
Palghat.

3. The Divisional Railway Manager,
Southern Railway,
Palghat division,
Palghat.

4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat division,
Palghat.

5. The Additional Divisional Railway Manager,
Southern Railway,
Palghat division,
Palghat. ....Respondents

(By Advocate Mrs Sumathi Dandapani, Senior with Ms PK Nandini)

This application having been finally heard on 8.10.2007, the Tribunal on 23.11.2007 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

This is probably the 4th round of litigation by the applicant to redress his grievance against the penalty of removal from service imposed upon him.

2. The applicant was proceeded under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 vide A-4 memorandum dated 21.12.2001 for showing lack of devotion to duty. The specific charges against him was that he misbehaved with duty SM and abused him under the influence of alcohol while working at MJS on 28.7.1994. As statement of imputation, it was stated that "he should not have taken any alcoholic drink while on duty." His explanation was that the charges levelled against him were vague and ambiguous and not capable of giving a proper explanation for want of specific details. He has also submitted that the incident alleged to have occurred was long back and in the absence of any specific details, such as the name of the Station Master with whom he had alleged to have misbehaved, when and where the alleged incident had taken place, he was not in a position to properly defend his case. However, he had specifically denied the charge that he had ever taken alcoholic drink while on duty and had ever performed duties under the influence of liquor. Not satisfied with the explanation given by the applicant, the disciplinary authority proceeded with the enquiry and appointed the enquiry officer. He has served with two prosecution documents with which the charge was to be proved, viz, (i) Medical Report of CMS/PGT. and (ii) Report of SM/MJS dated 28.7.1994. The only witness by which the charge was proposed to be sustained was Shri Vijayan Valiyaparayil, SM/MJS on duty. During the enquiry also the applicant repeated the same submissions made before the disciplinary authority in his explanation that the charges were vague etc. During the enquiry, the prosecution witness

Shri Shri Vijayan Valiyaparayil, SM/MJS deposed that he did not remember the chronology of event but he could give only a gist of what had happened on that 29.7.1994. According to him, in the evening on that date, the applicant who was on platform duty without any provocation began speaking ill of SM Office. Since he could not be contained and it was felt that he was under the influence of alcohol, the local police and DMO/MAQ were informed. Later on, the Police took him into custody. He has also stated before the enquiry officer that he was familiar with people who consumed alcohol and he felt the applicant was under the influence of alcohol. He further deposed that the applicant misbehaved in such a manner that by standing outside the SM's room, he abused him and his office using filthy and threatening language. However, he did not confirm whether the applicant was medically examined by the DMO/MAQ who came to the sport. After the enquiry was over, the applicant submitted the Annexure A-7 defence statement (written brief) dated 28.3.2002 once again denying the charges and the imputation thereof. The main contention was that the charges were not proved as the one of the listed documents, viz, the medical report of CM/PGT was not identified by any one during the enquiry and the person who has signed the same was not examined as a witness. The second document viz, the report of SM/MJS dated 28.7.1994 also could not have been considered as piece of evidence as the author of the report has not been examined and the document was not identified as certificate. As the only witness, Shri Vijayan Valiyaparayil, SM/MJS did not prove the same during the enquiry when the following specific question was asked to him:

> *"Can you identify this document produced in the Annexure III of charge memo report of SM/MJS dated 28.7.94 by verifying the hand and signature. Whether it was from you or not?"*

His answer to the said question was,

> *"The document is not written by me and the signature is not mine."*

However, the enquiry officer vide A-8 report held that the charge against the applicant was proved for the following reasons :

> *"The list of documents to substantiate the charges were 1) The medical certificate and 2) The statement of SM. The medical certificate certifies the presence of alcohol in the blood taken from the CE on the day of the incident and it is also being interpreted that the concentration of ethyl alcohol in the blood and urine of the CE shows that he was under the influence of alcohol. The statement by the CE that the document does not have nexus with the allegation cannot be accepted since the certificate is issued by CMS/PGT on the report of the Assistant Chemical Examiner to the Government of Karnataka. Mangalore Region and the procedure of taking blood and urine samples were performed by Sr. DMO/MAQ which has been stated clearly in the SMs statement.*
>
> *SMs statement enunciate the charge of misbehaviour wherein he has quoted the diary report recorded by Shri Vijayan Valiyaparayil, detailing the incident of abusing the SM in filthy language under the influence of alcohol. This is being substantiated by the witness in his reply to the CE in (Ans to Q.16). The Sms statement also reveals that the CE was removed by police and duties were entrusted to Mr Balan. Flg SCP/T1/CAN. The witness has admitted this in his answer to Q11. There was misbehaviour and ill speaking by the CE without any provocation which is proved by the answer of the witness to Q.8 and he further narrates that this was due to the influence of alcohol. Influence of alcohol was subsequently proved by the certificate of Test of urine and blood. There was no bias on the part of the witness to report against CE (Ans to Q.17). Further it has been stated that the CE was taken away by the local police. (Ans to Q.9). It is clear that there is also necessity for police to remove a prudent railway men without any specific reason. It could also be seen that a reliever was arranged for the CE without completion of his duty hours. The CE was given all facilities to cross examine and all measures were rendered to fulfill natural justice and all reasonable opportunity was given to the CE to defend the charges. CE has certified to this effect that he is satisfied with the enquiry procedure (Ans to Q.23). Considering the above facts and evidences it is proved beyond doubt that Sri C Krishnankutty S.No.J/MD.651, SCP/UAA while working at MJS had on 28.7.94 misbehaved with duty SM and abused him under the influence of alcohol. He has therefore not shown devotion to duty and behaved in a manner quite unbecoming of a Railway Servant and thus violated Rule 3.1(ii)& (iii) of Railway Services (Conduct) Rules, 1966."*

3. On having received a copy of the aforesaid report from the disciplinary authority, the applicant on 1.7.2002 made A-9 representation stating that the so called incident had taken place some 8 years back and the lone witness Shri

Vijayan Valiyaparayil, SM/MJS himself has confessed that he did not remember the details and he had relied entirely upon the earlier proceedings and statements. However, after considering the enquiry officer's report and the representation of the applicant thereon and other relevant material available on file, the disciplinary authority agreed by the enquiry report and held that the applicant had misbehaved with the duty SM and abused him by using filthy words under influence of alcohol on 28.7.1994. According to the disciplinary authority, the explanation submitted by the applicant on 11.1.2002 and the representation according to the enquiry report submitted on 1.7.2002 were not convincing. The disciplinary authority made specific mention of the enquiry officers report that the "blood taken from the charged employee" on the date of the incident shows that he was under the influence of liquor and the prosecution witness Shri Vijayan Valiyaparayil, SM/MJS quoted diary report recorded by him detailing the incident on 28.7.1994 noting that the consumption of alcoholic drinks on duty is a serious offence. The disciplinary authority found him not a fit person to continue in Railway service and accordingly removed him from service. The applicant made A-10 appeal dated 27.8.2002 stating that he was absolutely innocent and there was no evidence against his to substantiate the charges levelled against him. He has also stated that the penalty imposed on him was too severe.

4. The applicant had earlier filed O.A.669/2003 before this Tribunal against the same impugned order of removal dated 27.5.2002 stating that his appeal to the 5th respondent, made on 27.8.2002 was not disposed of. This Tribunal vide order dated 11.8.2003 disposed of the said O.A with a direction to the respondents to dispose of the appeal within a period of three months. However, the appellate authority vide A-12 dated 18.11.2003 agreed with the penalty imposed on the applicant and held that the same was the adequate penalty in

view of the nature of the charge proved against him. He has also observed in his order:

> *"..A perusal of his Service Records reveal that he was imposed with lesser penalties for various acts of misconduct as indicate below:*
> 1. *Being full drunk, misbehaved with a lady passenger during 1983.*
> 2. *Casual extra detention to an express train at Tirunavaya during 1987.*
> 3. *Misbehaved with the duty Station, Kasargod, shouting filthy language in the intoxicated mood during July, 1989.*
> 4. *Came to station platform in an intoxicated mood and shouted filthy language to duty station master during November 1989.*
> 5. *Caused detention to passenger train and damaged railway property during 1991.*
> 6. *Came to platform in an intoxicated mood and abused passengers during 1991.*
> 7. *Entered Ullal station platform in an intoxicated mood and misbehaved with a lady passenger during 1995.*
> 8. *Unauthorised absence from duty during 1995."*

5. The applicant again approached this Tribunal vide O.A.971/2000 challenging the disciplinary authority's order on the ground that the impugned Disciplinary Authority's order was not issued by a competent authority. This Tribunal, agreeing with the contention of the applicant, set aside the impugned order with liberty to the respondents to proceed against the applicant in accordance with law. Thereafter, the applicant was reinstated in service and he was served with the fresh memo of charges dated 21.12.2001 (A-4). On the basis of the report of the Enquiry Officer's report, the Disciplinary Authority issued A-10 order dated 25.7.2002 finding that the applicant was guilty and imposed on him the penalty of removal from service. Aggrieved by the disciplinary authority's said order, the applicant filed an appeal contending that the enquiry was not held in accordance with law. As the appeal was not disposed of, the applicant filed O.A.669/2003. That O.A was disposed of with a direction to the respondents to consider the appeal and pass a speaking order. However, the appeal was rejected and the applicant filed O.A.1023/2003

seeking to set aside the order of the disciplinary authority as well as the appellate authority alleging that the impugned order were perverse and issued without application of mind. This Tribunal vide order dated 14.3.2005 set aside the appellate order and directed the respondents to consider the appeal of the applicant in accordance with law keeping in view the observations made by the Tribunal. The A-2 appellate order order dated 5.5.2005 has been issued to the applicant in compliance with the aforesaid order of this Tribunal dated 14.3.2005. The appellate authority whs held that the charges levelled against him was clearly proved beyond any doubt and the enquiry report was based on evidence on record and the applicant's contention that he was not guilty of the charges was not spelt out by any evidence on record.

6. It is in the above said back ground that the applicant has approached this Tribunal with the present O.A on the ground that the Annexure A-1 and Annexure A-2 disciplinary and appellate order respectively are totally arbitrary, discriminatory, contrary to law and therefore violative of the constitutional guarantees enshrined under Articles 14, 16, 21 and 311(2) of the Constitution. He has further submitted that his earlier submission before the appellate authority/disciplinary authority that there was no evidence on record to substantiate the charges and the entire proceedings were in violation of the principles of natural justice as the enquiry officer has not followed Rule 9(20) of the Railway Service (Discipline & Appeal) Rules 1968 as he failed to post the case for defence evidence and self examination but he closed the case abruptly. He has also contended that the findings of the enquiry officer are perverse and are not based on evidence on record as the "Medical Certificate" said to have been issued by the "CMS/ PGT" and a "statement of the SM" were not produced during the enquiry and the name of the said 'CMS/PGT' also not been proved in the enquiry. They have also alleged that the enquiry officer imported his

personal knowledge and relied upon many documents behind the back of the applicant as was evident from the para titled "Previous History" and also from the reasons for the findings. He has also stated that in terms of Rule 584 to 586 of Section 1 of Chapter V of the Indian Railway Medical Manual, it was essential that the concerned Medical Officer should have certified that the applicant was drunken while on duty. He has also alleged that the respondents were very much prejudiced and biased against him as the Tribunal has decided O.A.971/2000 in his favour. This was evident from the fact that the respondents did not arrange the applicant's pay and allowances even after reinstatement which compelled him to approach this Tribunal in O.A.24/2003 and even after the disposal of the aforesaid case, respondents paid the subsistence allowance for the period from 1994 to the date of his removal, that too @50% of the applicant's pay and allowances as it stood at the time of removal under the IV CPC. Respondents were also prejudiced against him because he has approached this Tribunal vide O.A.669/2003 and O.A.1023/2003.

7. The counsel for the applicant has relied upon the judgments of the Apex Court in the following cases in support of his argument that the present case is a case of no evidence.

(i) Kuldeep Singh v. Commissioner of Police and others [1999 SCC (L&S, 429] in which it was held as under:

> *"6. It is no doubt true that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the enquiry officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority.*

7. In Nand Kishore Prasad v. State of Bihar [(1978) 3 SCC 366] it was held that the disciplinary proceedings before a domestic tribunal are of quasi judicial character and, therefore, it is necessary that the Tribunal should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which and that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that event, the findings recorded by the enquiry officer would be perverse."

(ii) State of Uttar Pradesh v. Mohd. Sharif [1982 SCC (L&S) 253 in which it was held as follows:

"3. After hearing counsel appearing for the State, we are satisfied that both the appeal court and the High Court were right in holding that the plaintiff had no reasonable opportunity of defending himself against the charges levelled against him and he was prejudiced in the matter of his defence. Only two aspects need be mentioned in this connection. Admittedly, in the charge sheet that was framed and served upon the plaintiff no particulars with regard to the date and time of his alleged misconduct of having entered Government Forest situated in P.C. Thatia district, Farrukhabad and hunting a bull in that forest and thereby having injured the feeling of one community by taking advantage of his service and rank, were not mentioned. Not only were these particulars with regard to date and time of the incident not given but even the location of the incident in the vast forest was not indicated with sufficient particularity. In the absence of these plaintiff was obviously prejudiced in the matter of his defence at the enquiry. Secondly, it was not disputed before us that a preliminary enquiry had preceded the disciplinary enquiry and during the preliminary enquiry statements of witnesses were recorded but copies of these statements were not furnished to him at the time of the disciplinary enquiry. Even the request of the plaintiff to inspect the file pertaining to preliminary enquiry was also rejected. In the face of these facts which are not disputed it seems to us very clear that both the first appeal court and the High Court were right in coming to the conclusion that the plaintiff was denied reasonable opportunity to defend himself at the disciplinary enquiry; it cannot be gainsaid that in the absence of necessary particulars and statements of witnesses he was prejudiced in the matter of his defence. Having regard to the aforesaid admitted position it is difficult to accept the contention urged by the counsel for the appellant that the view taken by the trial court should be accepted by us. We are satisfied that the dismissal order has been rightly held to be illegal, void and inoperative. Since the plaintiff has died during the pendency of the proceedings the only relief that would be available to the legal heirs of the deceased is the payment of arrears of salary and other emoluments payable to the deceased."

(iii) Sawai Singh v. State of Rajasthan [1986 SCC (L&S) 662] in which it was held as under:

"14. Quite apart from that fact, it appears to us that the charges were vague and it was difficult to meet the charges fairly by any accused. Evidence adduced was perfunctory and did not at all bring home the guilt of the accused.

15. Shri B.D.Sharma, learned advocate for the respondent, contended that no allegations had been made before the enquiry officer or before the High Court, that the charges were vague. In fact the appellant had participated in the enquiry. That does not by itself exonerate the department to bring home the charges.
xxxx xxxxx xxxx

18. Having regard to the consequences of the offences with which the delinquent officer was charged and having regard to the nature of charge and the evidence of handwriting expert and the absence of opportunity for cross examination and the conflicting nature of evidence of Chaturbhuj and nature of evidence given by Jiwan Dass, we are of the opinion that the report of the enquiry officer finding the appellant guilty should not have been sustained and the government should not have acted upon it. The High Court in our opinion, with great respect was in error in not bearing in mind these aspects which have been indicated hereinbefore."

(iv) Union of India v. H.C.Goyal [AIR 1964 SC 364] in which it was held as under:

"20. This conclusion does not finally dispose of the appeal. It still remains to be considered whether the respondent is not right when he contends that in the circumstances of this case, the conclusion of the Government is based on no evidence whatever. It is a conclusion which is perverse and, therefore, suffers from such an obvious and patent error on the fact of the record that the High Court would be justified in quashing it. In dealing with writ petitions filed by public servants who have been dismissed, or otherwise dealt with so as to attract Art. 311(2), the High Court under Art. 226 has jurisdiction to entire whether the conclusion of the Government on which the impugned order of dismissal rests is not supported by any evidence at all. It is true that the order of dismissal which may be passed against a Government servant found guilty of misconduct, can be described as an administrative order; nevertheless, the proceedings held against such a public servant under the statutory rules to determine whether he is guilty of the charges framed against him are in the nature of quasi-judicial proceedings and there can be little doubt that a writ of certiorari, for instance, can be claimed by a public servant if he is able to satisfy the High Court that the ultimate conclusion of the Government in

the said proceedings, which is the basis of his dismissal, to the learned Attorney General, we ought to add that he did not seriously dispute this position in law."

8. The respondents, in their reply, have denied all the contentions made in the O.A and the grounds taken in support thereof. They have produced the Annexure R-1 first prosecution document, namely, Medical Report dated 7.9.1994, from the Chief Medical Superintendent, Divisional Office, Palghat according to which the clinical examination of the applicant was held at 18 hours on 28.7.1994 during which his blood and urine samples were taken and sent to the Assistant Chemical Examiner to the Government of Karnataka, Mangalore Region for chemical analysis. According to the report:

"..Concentration of ethyil alcohol in blood and urine of the employee shows that he was under the influence of alcohol but not intoxicated. Based on this, suitable action, as deemed fit may be taken at your end, and this office advised."

They have also produced he second prosecution document i.e. Annexure R-2 report dated 28.7.1994 by Shri Vijayan Valiyaparambil, the Station Master, Manjeswaram who was the only prosecution witness in this case. It was to the following effect:

"At about 15.00 hrs. Sri C.Krishnakutty SCP/UAA, J/MD 651 who was put on duty at platform began abusing the office of SM/MJS and me personally using filthy language after coming drunken. On 26.7.94 he was rostered to 0800-2000 hrs duty. However, he left the station(absconding) at about 18.40 hrs and the same was recorded in the station diary by me. Also he did not perform his assigned duty on 26.7.94. SM/IC had taken the matter very seriously with him. Apparently this was the cause of today's incident.

Since I could not contain him and platform began crowded I sought the help of Mr Sivakumar SM/officiating (Mr P Janardanan SM/IC under sick from today morning) by about 1530 hrs and his effort was also in vain. Standing just outside the station room with a beedi between his lips he was abusing and threatening the SMs in the filthiest language possible.

Hence he was put off from duty at 1545 hrs and Sri Balan SCP/TI/CAN was called for duty. The matter was reported to the controller on duty, DMO/MAQ through SM/MAQ and local police

through P&T phone (TI/CAN could not be contacted, since he was on his way to BDJ as informed by SM/CAN).

Local police arrived by about 16.45 hrs. a formal complaint was lodged and they took Mr Krishnankutty into custody. DMO/MAQ arrived by 528Passenger arrived 1720 hrs. He took blood and urine samples and the lab. Report is awaited."

9. They have also relied upon Annexure R-4 Review Application dated 15.5.1997 wherein he had admitted as under:

"Now I realise my past mistakes Sir. My wife is a mental patient and she is undergoing treatment in private psychiatric Hospital at Ernakulam. Due to the mental agony this was happened and I never repeat any mistakes during my service period."

The revision authority vide Annexure R-5 letter dated 17.12.1997, after due consideration of his review application rejected the same and confimed the disciplinary authority's order removing him from service. The revisional authority stated in its order as under:

"In the subject case the charged employee has misbehaved with the duty SM under the influence of alcohol at MJS on 28.7.94. Relevant documents, records and enquiry proceedings have proved the charges levelled against the delinquent employee beyond any reasonable doubt. It is observed that this is not the first occasion the charged employee is taken up under DAR. There are similar instances where the charged employee has been taken up under DAR a number of times, also for misbehaving with lady passengers twice under the influence of alcohol, deserting the work spot and causing detention to train services. The charge employee has taken it very lightly and has not bothered to improve himself in all the cases. Being an alcoholic in the Safety Category, deriving least hope from the De-addction report obtained from Sr..DMO/SRR with a recommendation to put him back to duty purely as a TRIAL MEASURE, it is felt that his reinstatement will be detrimental to the interest of safety. I am convinced that the continuance of the employee in service will affect the safe and proper working of railways. Therefore, the penalty of removal from service is confirmed."

10. Counsel for the respondents has also relied upon the following judgments:

1. Union of India v. Sardar Bahadur [(1972) 2 SCR 218]
2. Government of Tamil Nadu and another v. Rajapandian [AIR

1995 SC 561]

3. Director General, ICAR v. Dr Anil Kumar Ghosh and another [(1998) 7 SCC 97.

11. In Union of India v. Sardar Bahadur [(1972) 2 SCR 218], the Hon'ble Apex Court has held as under:

> *"A disciplinary proceeding is not a criminal trial. The standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings with the respondent was one which reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Art. 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court."*

12. In Government of Tamil Nadu and another v. Rajapandian [AIR 1995 SC 561] the Hon'ble Supreme Court has held as follows:

> *"4. The Administrative Tribunal set aside the order of dismissal solely on re-appreciation of the evidence recorded by the inquring authority and reaching the conclusion that the evidence was not sufficient to prove the charge against the respondent. We have no hesitation in holding at the outset that the Administrative Tribunal fell into patent error in reappreciating and going into the sufficiency of evidence. It has been authoritatively settled by string of authorities of this Court that the Administrative Tribunal cannot sit as the findings of the inquiring authority in disciplinary proceedings. Where there is some relevant material which the disciplinary authority has accepted and which material reasonably support the conclusion reached by the disciplinary authority, it is not the function of the Administrative Tribunal to review the same and reach different finding than that of the disciplinary authority. The Administrative Tribunal, in this case, has found no fault with the proceedings held by the inquring authority. It has quashed the dismissal order by reappreciating the evidence and reaching a finding different than that of the inquring authority."*

13. In Director General, ICAR v. Dr Anil Kumar Ghosh and another [(1998) 7

SCC 97], the Hon'ble Apex Court held as under:

> *"12. There is no material on record whatever to support the contention that the Enquiry Officer was biased against the first respondent. The record of proceedings of the enquiry shows that the Enquiry Officer has acted impartially and without any kind of bias whatever.*
> *13. The objection that the certified copies of the Assessment Register should not have been marked without examining the officials concerned of the Municipality is untenable. The genuineness of the documents was never in dispute. In fact, the case f the first respondent is that the assessment in the Municipal Register was only for the purpose of taxation and it is not relevant for the claim of HRA."*

14. We have heard the learned counsel on both sides. The charge against the applicant is that he had misbehaved himself with the duty SM and abused him under the influence of liquor while working as MJS on 28.7.1994. The statement of imputation against him was that he should not have taken any alcohol drunk while on duty. According to the enquiry officer, the charge was proved on the basis of the evidence adduced during the enquiry and the records relied upon by the parties concerned. The disciplinary authority has agreed with the findings of the enquiry officer and imposed a penalty of removal from service upon the applicant. The main contention of the applicant was the charges are vague and ambiguous and not capable of being proper explanation for want of specific details. In our consider opinion, there is no ambiguity in the charge. Rather the charges are quite clear and they are in unequivocal terms. The other argument of the applicant was that there were no evidence on record to substantiate the charges and therefore the findings of the enquiry officer, disciplinary authority and the appellate authority were perverse, biased and pre-concluded. Of course, the 1st prosecution document, namely, the Medical Report dated 7.9.1994 was not proved during the enquiry as the Doctor/authority who/which prepared the same was not brought as a prosecution witness to prove the same. But, that was not the case with the second prosecution document,

namely, the report of the PW1, Shri Vijayan Valiyapambil dated 26.7.1994. He had very well identified his report and stood by it. He was duly cross examined by the applicant. It was the specific submission of the said prosecution witness before the enquiry officer that in the evening on 28.7.1994 the applicant who was on platform duty, without any provocation, started speaking ill of SM office and his behaviour was such that he could not be contained and the local police had to be called who took him in custody. The evidence given by him duly cross examined by the applicant alone was sufficient to prove the charge against the applicant. As an eye witness in the case (defence witness) he has clearly submitted that the applicant was in a drunken stage and he has misbehaved with the respondents by using abusive language. The other contention of the applicant is that the enquiry officer has not followed the provisions contained in Rule 9(20) of the Railway Servant (Discipline & Appeal) Rules, 1968. The said Rule reads as under:

> *"The evidence on behalf of the Railway servant shall then be produced. The Railway servant may examine himself in his own behalf, if he so prefers. The witnesses produced by the Railway servant shall then be examined by or on behalf of him and shall be cross-examined by or on behalf of the presenting Officer, if any. The Railway servant shall be entitled to re-examine the witnesses on any point on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit."*

The above contention of the applicant has no substance. He himself has not produced a single witness or documents in support of his submissions. Moreover, the Inquiry Officer has clearly stated in his report as under:

> *"All the question to the CE on the charges against the CE the answers were total denial (Q.19,Q 20, Q.21) however there was no material or physical evidences submitted by the CE to substantiate his denial."*

Moreover, after the receipt of enquiry report, Disciplinary Authority's order and

Appellate Order, he admitted in his review application that he had realised his mistakes and gave an undertaking that he would never repeat such mistakes in future.

In State Bank of AIR 1996 SC 1669, the Apex Court held as under:

> *"...In our respectful opinion, the principles emerging from the decided cases can be stated in the following terms in relation to the disciplinary orders and enquiries; a distinction ought to be made between violation of the principle of natural justice, audi alteram partem, as such and violation of a facet of the said principle. In order words, distinction is between "no notice", "no hearing" and "no adequate hearing" or to put it in different words, "no opportunity" and "no adequate opportunity." To illustrate – take a case where the person is dismissed from service without hearing him altogether [as in Ridge v. Baldwin, (1964 AC 40). It would be a case falling under the first category and the order of dismissal would be invalid – or void, if one chooses to use that expression (Calvin v. Carr, (1980 AC 574). But where the person is dismissed from service, say, without supplying him a copy of the enquiry officer's report (Managing Director, ECIL v. B Karunakar (1994 AIR SCW 1050) or without affording him a due opportunity of cross examining a witness (KL Tripathi, AIR 1984 SC 273), it would be a case falling in the latter category – violation of a facet of the rule of natural justice – in which case, the validity of the order has to be tested on the touch stone of prejudice, i.e. Whether, all in all, the person concerned di or did not have a fair hearing."*

In Syed AIR 2001 SC 2418, the Apex Court held as under:

> *"5. The further grievance that the findings of the Enquiring Officer are findings on no evidence is belied by the very report of the Enquiring Officer. The Enquiring Officer has dealt with the Articles of charge chronologically and the relevant materials on the basis of which the ultimate conclusion is arrived at. It is well settled that a conclusion or a finding of fact arrived at in a disciplinary inquiry can be interfered with by the Court only when there is no materials, the conclusion cannot be that of a reasonable man. Having examined the report of the Enquiring Officer, we are unable to accept the contention of the learned counsel for the appellant that the findings of the Enquiring Officer cannot be held to be findings based on no evidence."*

In Bank of India & another v. Degala Suryanarayana [JT 1999(4) SC 489] the Apex Court held as under:

> *"11. Strict rules of evidence are not applicable to departmental*

enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The Court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of malafides or perversity i.e. Where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. The Court cannot embark upon reappreciating the evidence of weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained. In Union of India v H.C.Goel 1964 (4) SCR 718 the Constitution Bench has held:

> "the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not.".

The Apex Court has considered the term "misbehaviour" in the case of Krishna Swami v. Union of India [(1992) 4 SCC 605] and held as under:

> *"68. From this constitutional orientation, let us plough the seeds or roots of causation of "misbehaviour" in Article 124(4). The Constitution or the Act, obviously, gave no definition of misbehavior. In Corpus Juris Secundum 1 Volume 58, th word 'mishaviour' was was defined as ill conduct, improper or unlawful behaviour. it has been held to be synonymous with misconduct. In Words and Phrases Judicially Defined, Volume 4 "Misbehaviour" has been defined as "outrageous or improper conduct".*
> *69. Black's Law Dictionary, 6th Edition, p.998, defined 'misbehavior' as "ill conduct, improper or unlawful behaviour". 'Misconduct' was defined at p.999 as "A transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behaviour, wilful in character, improper or wrong behaviour; its synonyms are misdemeanor, mis deed, misbehavior, delinquency, impropriety, mismanagement, offence, but not negligence or carelessness".*

'Misconduct in office' was defined as "Any unlawful behaviour by a public officer in relation to the duties of his office, wilful in character. Term embraces acts which the office holder had no right to perform, acts performed improperly, and failure to act in the face of an affirmative duty to act".

7. In Encyclopedic Law Dictionary, 3rd Edition, at p.720 'misbehavior' was defined as "improper or unlawful conduct, generally applied to a breach of duty or propriety by an officer, witness, etc. not amounting to a crime. P Ramanathan Aiyar's The Law Lexicon Reprint Edition, 1987 defines misbehavior' at p.820 as "ill conduct; improper or unlawful behaviour". 'Misconduct' was defined at p.821 as "the term 'misconduct' implies a wrongful intention, and not a mere error of judgment. Misconduct is not necessarily the same thing as conduct involving moral turpitude". The word 'misconduct' is a relative term, and has to be construed with reference to the subject matter and the context wherein the term occurs, having regard to the scope of the Act or statute which is being construed. 'Misconduct' literally means "wrong conduct or improper conduct". 'Misconduct in office' was defined as "unlawful behaviour or neglect by a public officer, by which the rights of a party have been affected."

In Union of India v Sardar Bahadur [(1972) 4 SCC 618] the Apex Court held as under:

"Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court, exercising its jurisdiction under Article 226, to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held, the question of adequacy or reliability of the evidence cannot be canvassed before the High' Court."

In Apparel Export Promotion Council v. A.K.Chopra [(1999) 1 SCC 759] the Apex Court held as under:

"16. The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to reappreciate the evidence and come to its own conclusion, on facts, being the sole fact finding authority. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be

canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that is shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the court, in exercise of the power of judicial review, is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision making process. Lord Hailsham in ? Chief Constable of the North Wales Police v. Evans observed:

> *"..The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorised or enjoined by law to decide for itself, a conclusion which is correct in the eyes of the court."*

17. Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the administrative authority on a matter which fell squarely within the sphere of jurisdiction of that authority."

In B.C.Chaturvedi v. Union of India and others [JT 1995 (8) SC 65] the Apex Court held as under:

> *"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a*

public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules Evidence Act not of proof of fact or evidence as defined therein, apply to disciplinary proceedings. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

In Mahindra and Mahindra Ltd v. N.B.Narawade [JT 2005 (2) SC 583] the Apex Court held as under:

"as noticed herein above at least in two of the cases cited before us, i.e. Orissa Cement Ltd. (supra) and New Shrrock Mills (supra), this Court held: "punishment of dismissal for using of abusive language cannot be held to be disproportionate". In this case all the forums below have held that the language used by the workman was filthy. We too are of the opinion that the language used by the workman is such that it cannot be tolerated by any civilized society. Use of such abusive language against a superior officer, that too not once but twice, in the presence of his subordinates cannot be termed to be an indiscipline calling for lesser punishment in the absence of any extenuating factor referred to herein above."

In Lalit Poli v. Canara Bank and others [(2003) 3 SCC 583] the Apex Court held as under:

"16. It is fairly well settled that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offences

registered against him are established and if established what sentences should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct.

17. While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is not akin to adjudication of the case on merits as an appellate authority."

In Sher Bahadur v. Union of India and others [(2002) 7 SCC 142] the Apex Court held as under:

"7. It may be observed that the expression "sufficiency of evidence" postulates existence fo some evidence which oinks the charged officer with the misconduct alleged against him. Evidence, however, voluminous it may be, which is neither relevant in a broad sense nor establishes any nexus between the alleged misconduct and the charged officer, is no evidence in law. The mere fact that the enquiry officer has noted in his report, "in view of oral, documentary and circumstantial evidence as adduced in the enquiry", would not in principle satisfy the rule of sufficiency of evidence. Though, the disciplinary authority cited once witness Shri RA Vashist, Ex. CVI/Northern Railway, New Delhi in support of the charges, he was not examined. Regarding documentary evidence, Ext. P1 referred to in the enquiry report and adverted to by the High Court, is the order of appointments of the appellant which is a neutral fact. The enquiry officer examined th charged officer but nothing is elicited to connect him with the charge. The statement of the appellant recorded by the enquiry officer shows no more than his working earlier to his reengagement during the period between May 1978 and November 1979 in different phases. Indeed, his statement was not relied upon by the enquiry officer. The finding of the enquiry officer that in view of the oral, documentary and circumstantials evidence, the charge against the appellant for securing the fraudulent appointment letter duly signed by the said APO(Const.) was proved, is, in the light of the above discussion, erroneous. In our view, this is clearly a case of finding the appellant guilty of charge without having any evidence to link the appellant with the alleged misconduct. The High Court did not consider this aspect in its proper perspective as such the judgment and order of the High Court and the order of the disciplinary authority, under challenge,cannot be sustained, they are accordingly set aside."

15. In the above facts and circumstances of the case and in view of the aforestated various judgments of the Apex Court, we are of the considered view that the charge against the applicant was a very serious one and it was proved during the enquiry. The respondents have imposed the major penalty of removal from service which has been upheld by the appellate authority and reviewing authority, as the appropriate punishment in the facts and circumstances of the case. We, therefore, do not find any infirmity with the impugned orders. In the circumstances, the O.A is dismissed. No costs.

Dated, the 23rd November, 2007.

GEORGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

trs

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A.36/2007 in O.A No.616/2005

Monday, this the 10th day of March, 2008.

CORAM

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

C.Krishnanakutty,
s/o P.T.Chami,
Ex. Cabin Man-II,
Southern Railway, Ullal R.S. & P.O.
Residing at: 'Wariams', SDPY Road,
Palluruthy, Kochi-6. ....Review Applicant

(By Advocate Mr TC Govindaswamy)

V.

1 Union of India represented by
the General Manger,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Chennai-3.

2. The Senior Divisional Operations Manager,
Southern Railway,
Palghat division,
Palghat.

3. The Divisional Railway Manager,
Southern Railway,
Palghat division,
Palghat.

4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat division,
Palghat.

5. The Additional Divisional Railway Manager,
Southern Railway,
Palghat division,
Palghat. ....Respondents

(By Advocate Mrs Sumathi Dandapani, Senior with Ms PK Nandini)

This Review Application having been heard on 5.3.2008, the Tribunal on 10.3.2008 delivered the following:

:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

1. The contention of the Review Applicant (applicant in the O.A) is that the following findings of this Tribunal in R.A.1 order dated 23.11.2007 (order in O.A.616/2005) are factually incorrect:

(a) *"But, that was not the case with the second prosecution document, namely, the report of PW1, Shri Vijayan Valiyaparambil dated 26.7.1994. He had very well identified his report and stood by it."*

According to the review applicant, *"..there is no report of Shri Vijayan Valiyapurayil dated 26.7.1994 either cited in the Annexure A-4 charge memo or produced during the course of the enquiry. The report cited in Annexure III of Annexure A-4 charge memo is that of "SM/MJS dated 28.7.1994 (not 26.7.1994 as stated in the Annexure RA1 order and not that of Vijayan Valiya Purayil."*

In support of the above contention, the review applicant quoted the question No.13 and its answer in the cross examination which as under:

"Q.13. Can you identify this document produced in the Annexure III of charge memo report of SM/MJS dated 28.7.94 by verifying the hand and signature. Whether it was from you or not.
Ans. The document is not written by me and the signature is not mine."

The Review Applicant submitted that the charge memo against him was that he misbehaved with duty Station Master on 28.7.1994 only and the alleged report

made two days prior to that date i.e. 26.7.1994 as stated in the portion of the judgment extracted above, by no stretch of imagination can be of proof an incident alleged to have taken place two days later. The assumption of the review applicant is that this Tribunal mistook the reference in Question No.16 where a reference to the report of the SM/MJS dated 26.7.1994 because the answer to Q.No.17 and the reference to the date of 26.7.1994 would further show that the incidents referred to on 26.7.1994 has nothing to do with the incident or the alleged offence said to have been committed on 28.7.1994 in the charge memo.

(b) There are errors in the following part of Para 14 of the order *"It was the specific submission of the said prosecution witness before the enquiry officer that in the evening on 28.7.1994 the applicant who was on platform duty, without any provocation, started speaking ill of SM office and his behaviour was such that he could not be contained and the local police had to be called who took him in custody. The evidence given by him duly cross examined by the applicant alone was sufficient to prove the charge against the applicant."* According to the applicant, the charge against him was that he has misbehaved with the duty SM and abused him under the influence of alcohol and Shri Vijayan Valiyaparambil was the duty SM but he did not lead any evidence to prove that the applicant had misbehaved or abused him, either without, or under, the influence of alcohol. Speaking ill of SM office, even if true, not conceding, cannot be treated as proof of misbehaviour with the duty SM or as a proof of abusing the duty SM under the influence of alcohol. Such an interpretation cannot be given by stretching the language to any extent. Therefore, the findings of the Tribunal in this aspect also is not based on any evidence on record.

(c) There was no defence witness in the case and Shri Vijayan Valiyaparambil was a prosecution witness.

(d) The words respondents appearing in the following portion of the order was also an error "..he had misbehaved with the respondents by using abusive language"

(e) In para 7 this Tribunal noticed and extracted the various decisions of the Apex Court referred to by the applicant but there is no finding as to why these decisions cited by the applicant are not applicable to the facts on the case.

(f) Paras 10, 11 and 12, the Tribunal has extracted the decisions cited by the learned counsel for the respondents but reasons are stated anywhere as to how and why these decisions are accepted or liable to be rejected.

(g) From page 16 onwards the Tribunal has cited various decisions not cited either by the applicant or by the respondents. However, there are no reasons to show as to how and why these decisions are to be made applicable to the facts of the case.

(h)The reasons stated by this Tribunal and also findings as stated above, result in substantial miscarriage of justice leaving the applicant to irreparable injury and untold miseries.

3. The respondents in their reply to this R.A submitted that the charge against the applicant was that while working at Manjeswaram Station on 28.7.1994, he misbehaved with the duty SM and abused him under the influence

of alcohol. The duty SM on the above day was Shri Vijayan Valiyaparambil and a report regarding the incident was recorded by him in the station diary and this was communicated by the SM in charge vide letter dated 28.7.1994 produced as Annexure R-2 reply statement. They have further submitted that the observation of this Tribunal that the same is not the case with the 2nd document, is correct. Annexure R2 letter dated 28.7.1994 was written by SM in charge, which contained the report of SM on duty as recorded in the station diary. The date of report indicted in the order of the Tribunal as 26.7.1994 is an inadvertent mistake.

4. We have heard Shri TC Govindaswamy, counsel for the review applicant extensively and Smt. Sumathi Dandapani, Senior counsel appearing on behalf of respondents. Before we go into the merits of the R.A., we remind ourselves about the parameters within which a review application has to be considered and decided. A revision is bound by the provisions of Order 47 Rule 1 of CPC. It should be justified by pointing out a glaring omission or apparent mistake or grave error apparent in the order passed in the original application or a new point which could not be agitated at the time of hearing of the O.A. A review application is not an appeal and it is not meant for re-hearing/fresh hearing. In **Meera Bhanja v. Smt Nirmal Kumar Chadda** [1994 (4) SCALE 985], the Apex Court held the Tribunal cannot sit in appeal over its own decision or re-appreciate the matter. Further, the Hon'ble Supreme Court in the case of **Sow. Chandra Kanta and another Vs. Sheik Habib,** AIR 1975 SC 1500 held that a review petition cannot be utilised for rearguing or traversing the same ground. Again in the case of **Ajith Kumar Rath Vs. State of Orissa and others, (2000 (1) SLR 622** wherein it has been held as under:

> "29. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47.

> The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction or a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule."

Considering this review application within the aforesaid parameters of the law laid down by the Apex Court, we are of the opinion that the applicant is only trying to enter into the 5th round of litigation by re-arguing the entire case once again. Except for certain minor typographical errors, we do not consider that this review application comes within the parameters of review and therefore it is to be rejected on merit.

5. It is a fact that the prosecution witness Shri Vijayan Valiaparambil SM/MJS recorded a report in the Station Diary that the Review Applicant did not perform the assigned duty on 26.7.1994 and instead left the station at about 18.40 hrs. In the cross examination the said prosecution witness admitted that he recorded the incident in the station diary and brought to the notice of the SM incharge. This is evident from the Question No.16 and its answer. As regards the incident of 28.7.1994, the said prosecution witness deposed before the enquiry officer that in the evening of that date, the Review Applicant who was on platform duty without any provocation began speaking ill of SM office and could not be contained and felt that he was under the influence of alcohol the local police and DMO/MAQ were informed.

6. The words in bracket in para 14 "(defence witness)" is an error and it shall be corrected as "(prosecution witness)".

7. The words "respondents" appearing in the 11th line of page 15 of the order is used erroneously and it shall be substituted by the words "duty SM".

8. The R.A. Is allowed only to the extent of the aforesaid clerical mistakes. All the other contentions/grounds in the R.A are rejected.

Dated, the10th March, 2008.

GEROGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

trs