

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.7/98

Monday this the 5th day of January, 1998.

CORAM:

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

HON'BLE SHRI S.K.GHOSAL, ADMINISTRATIVE MEMBER

N.Mony,
Senior Gangman, Gang No.3,
Southern Railway,
Velliyanai Railway Station,
Residing at Railway Quarters, Velliyanai
Railway Station, Karur District.Applicant

(By Advocate Mr.T.C.Govindaswamy)

vs..

1. The Union of India, Through the General Manager, Southern Railway, Headquarters office, Park Town P.O., Madras -3.
2. The Assistant Engineer, Southern Railway, Karur.
3. The Divisional Engineer(East), Southern Railway, Palghat Division, Palghat.
4. The Divisional Railway Manager, Southern Railway, Palghat Division, Palghat.Respondents

(By Advocate Mrs. Sumathi Dandapani)

The Application having been heard on 5.1.98, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

This is the second round of litigation between the applicant and the Railway Administration regarding the order of penalty of withholding of increment which fell due on 1.3.95 for a period of three years non-recurring and the appellate order confirming the said penalty. The applicant, a Gangman was served with a memorandum under

Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968 for refusing to go for night patrol chart as per night patrol chart from 21.11.94 to 24.11.94. Though he submitted an explanation to this memorandum, the disciplinary authority issued the impugned order dated 10.1.95 finding that his explanation was not satisfactory and imposing on him the penalty for the reason that he had refused to go for night patrol duty as per night patrol chart from 21.11.94 to 24.11.94 and that he had thereby violated Rule 3 (i) (ii) of Railway Servants (Conduct) Rules, 1966. Aggrieved by this order the applicant filed an appeal which was disposed of by order dated 7.5.97. It was aggrieved by these two orders the applicant had filed O.A.865/97 which was disposed of on 1.7.97 with a direction to the applicant to make a revision petition and a direction to the revision authority to consider and dispose of the revision petition. In obedience to the above direction the applicant filed a revision petition which was disposed of by the impugned order dated 1.8.97 at all upholding the order of the disciplinary authority. The revisional authority has passed a detailed order. The applicant has assailed these orders in this O.A. on various grounds.

2. We have perused the application as also the Annexures thereto and have heard Shri T.C.Govindaswamy, counsel for applicant and the standing counsel for respondents. Shri Govindaswamy argued that several other Gangmen like the applicant who were deputed for night patrol duty either reported sick went on leave or refused to perform duty during the relevant period and that the action on the part of the respondents in singling out the applicant for

taking up disciplinary proceedings and awarding penalty is discriminatory and violative of Article 14 of the Constitution. Though the application at first flush may appear to have some merit, on a closer scrutiny of the relevant materials on file, we find nothing in that, deserving admission and adjudication. Neither in the explanation submitted to the memorandum nor in the revision petition filed by the applicant in obedience to the order of the Tribunal in O.A.865/97, it has been clearly stated as is averred in paragraph (f) of the application giving details that other Gangmen had refused to perform duty or were granted leave. We have perused the order of the revisional authority and we are satisfied that it is a detailed order giving cogent and convincing reason for turning down the claim made against the penalty imposed. We have also gone through the revision petition. No specific allegation as to which of the Gangman had refused to perform duty and which of the Gangman went on leave has not been averred. Therefore, it cannot be said that the order at A-11 is either perverse or arbitrary or suffering want of application of mind.

3. We are of the view that this case does not merit admission and further deliberation. The application is rejected under Section 19(3) of the Administrative Tribunals Act. There is no order as to costs.

Dated the 5th January, 1998.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A11: Order No.3/P OA 865/97 dt.1.8.97
issued by the 4th respondent.

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