

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 9 of 2007

Thursday this the 26th day of April, 2007.

CORAM :

HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN
HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER

Valsa Sugunan,
W/o Sugunan,
J/Peon Senior DEE/TRD,
Railway Divisional Office,
Palakkad. : Applicant

(By Advocate Mr. C.S.Manilal)

Versus

1. Union of India
represented by the General Manager,
Southern Railway, Chennai.
2. The Additional Divisional Railway Manager,
Southern Railway,
Palakkad.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palakkad.
4. The Assistant Personnel Officer,
Personnel Branch,
Southern Railway,
Palakkad. : Respondents

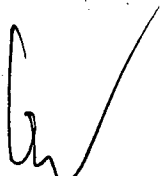
(By Advocate Mr. K.M.Anthru)

The application having been heard on 24.04.2007, the
Tribunal on 26.04.2007 delivered the following :

ORDER

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

The entire facts of the case need not be referred to here as the
the question involved in this case is as to the implication/interpretation of
the following portion of the penalty order dated 26-02-2001 (Annexure
A-1) passed against the applicant:-



"... she who is working in scale Rs 2610-3540 is imposed with the penalty of reduction of pay from Rs 3215/- to Rs 3030/- in same scale of pay for a period of five years with recurring effect. This is effective from 1-4-2001."

2. The respondents contend that during the currency of penalty, the applicant is not entitled to any increment. As the word "recurring" used in the penalty advice clearly shows the intention of the Disciplinary Authority to postpone the increment for the period of penalty. When an employee is reduced to a particular stage, the pay of that employee would remain constant at that stage for the entire period of reduction. When the reduction in stage is recurring the question of restoring the increment after the expiry of the period of penalty does not arise at all.

3. On the contrary, the applicant contends that when the applicant has been meted the above penalty of reduction of pay from Rs 3215/- to Rs 3030/-, she stands to lose 3 increments of Rs 65/- each and this would have the recurring effect. In other words, the applicant would permanently lose these three increments. Depriving the applicant increments during the currency of penalty would amount to awarding yet another minor penalty of withholding of increments, which has not specifically mentioned in the order of penalty. As such, the applicant is entitled to annual increments during the currency of penalty.

4. Arguments were heard and documents perused. Admittedly, the penalty imposed upon the applicant comes under the provisions of Rule 6(v) of the Railway Servants (Discipline and Appeal) Rules, 1968 which provides as under:-



(v)... reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.

5. The above rule when synthesized would mean -

- (a) reduction to a lower stage in the time scale of pay;
- (b) for a specified period;
- (c) with a further direction as to whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of pay.

6. In respect of (b) above, it needs to be specifically mentioned as to whether the individual would earn increments during the currency of penalty. Similarly in respect of (c) above, it should be clearly indicated whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of pay.

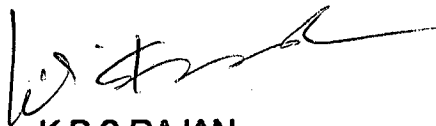
7. From the perusal of the penalty order it could be seen that the same does not specifically mention that the applicant would not earn increments during the currency of penalty. In the absence of such specification, if the increments are not granted, it would amount to imposing in addition to the penalty awarded, another minor penalty of withholding of increments. Unless the penalty order specifically mentions in this regard, there is no scope of stopping the increments during the currency of penalty. Again, the penalty order does not specifically mention as to whether the reduction will or will not have the effect of postponing the future increments. It appears that the authorities have used the colloquial term, "with recurring effect", a term not specified in the rules. Thus, the order impugned is not without certain amount of ambiguity and the same shall have to be duly clarified

by the same authority which had passed the impugned order dated 26-02-2001.

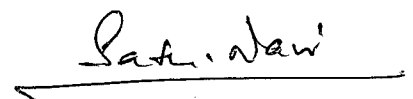
8. In view of the above, the case is remitted to Respondent No. 4 for due clarification in respect of (a) whether during the currency of penalty, the individual would earn annual increments and (b) whether the penalty will have the effect of postponing the future increments after the expiry of penalty. Such a clarification be issued within a period two months from the date of communication of this order. On issue of such a clarification, if the applicant is aggrieved by the terms of penalty, he has the opportunity to seek departmentally remedies as per rules i.e. appeal/revision.

9. The O.A. is disposed of with the above directions. No cost.

Dated, the 26th April, 2007.



K.B.S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

vs