

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.13/2000

Friday this the 22nd day of February, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Chinnaraju  
S/o Kandasamy  
Travelling Ticket Examiner-Sleeper  
Southern Railway  
Salem Junction  
Resident of Kadai Paliyur  
Padaveedu Post  
Sankari West  
Salem District.

...Applicant

[Mr. T.C.Govindaswamy]

Versus

1. Union of India represented by  
The General Manager  
Southern Railway  
Headquarters Office  
Park Town P.O.  
Madras.
2. The Senior Divisional Commercial Manager  
Southern Railway  
Palghat Division  
Palghat.
3. The Additional Divisional Railway Manager  
Southern Railway  
Palghat Division  
Palghat.

...Respondents

[Mr.P.Haridas.]

The application having been heard on 22nd February, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This Original Application has been filed by the applicant, a Travelling Ticket Examiner (Sleeper Class) working under the respondents - aggrieved by A-2 Penalty Advice dated 7.10.98 issued by the second respondent imposing upon him the penalty of



withholding his annual increment for a period of 18 months (NR) and A-5 Appellate Order dated 13.1.99 issued by the third respondent rejecting his appeal and confirming the penalty imposed on him. He sought the following reliefs through this OA:

- (a) Call for the records leading to the issue of Annexures A-2 and A-5 and quash the same, and direct the respondents to grant the consequential benefits thereof forthwith;
- (b) Award costs of and incidental to this application;
- (c) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

2. Applicant was issued with A-1 minor penalty charge memo dated 28.7.98. He filed his reply denying the charges. He was issued with A-2 Penalty Advice dated 7.10.98 by the second respondent withholding his increment (NR) for a period of 18 months. Against the same, the applicant filed A-3 appeal dated 1.12.98 followed by A-4 supplemental appeal dated 7.12.98. These were considered and rejected by the third respondent as Appellate Authority by A-5 order dated 13.1.99. Alleging that A-2 and A-5 orders were arbitrary, discriminatory, opposed to the mandatory principles of natural justice, ultra vires Rules 6 & 11 of Railway Servants (Discipline & Appeal) Rules, 1968 and violative of Articles 14 & 16 of the Constitution of India and alleging that A-1 memo was vague and ambiguous and narrating his version of the factual aspects, applicant assailed A-2. According to him, A-2 was based on presumptions and surmises. He assailed A-5 on the ground that his specific request for a personal hearing was neither granted nor was he given any reason for denying the said opportunity.

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3. Respondents filed reply statement resisting the claim of the applicant. According to them, the applicant was given opportunity to reply to the charges levelled against him and the applicant replied to the chargesheet by R-1 reply dated -8-98 which was received in the office of the second respondent on 25.8.98 and after considering all aspects including the explanations submitted by the applicant A-2 was issued. The appeal submitted by the applicant dated 1.12.98 and further representation dated 7.12.98 were considered by the Appellate Authority who then passed orders confirming the penalty imposed by A-2. According to them, the authorities considered the facts in its entirety and the OA was liable to be dismissed.

4. Heard the learned counsel for the parties.

5. We have given careful consideration to the submissions made by the learned counsel for the parties, the rival pleadings and the documents brought on record.

6. During the course of the arguments, learned counsel for the applicant submitted that in para 4.E, there was a typographical error in that in the last sentence, a word "not" was missing. This paragraph was with reference to the appeal and supplemental appeal submitted by him. We find that in the supplemental appeal the applicant had sought a personal hearing for explaining his case before the appellate authority. From the tenor of the reply statement, we find that this personal hearing had not been granted. When a government servant who has been issued with chargesheet and has been imposed with a penalty seeks

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in his appeal, a personal hearing before the appellate authority, the said appellate authority in the interest of natural justice should grant such a personal hearing. In this case, such a personal hearing had not been given. We are of the view that without going into the other aspects, we should remit the case back to the appellate authority. Accordingly we set aside and quash A-5 appellate order and direct the third respondent to grant a personal hearing to the applicant and then consider and dispose of A-3 and A-4 appeals in accordance with law.

7. The Original Application is disposed of as above with no order as to costs.

Dated 22nd February, 2002.

K.V. SACHIDANANDAN  
JUDICIAL MEMBER

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G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

#### APPENDIX

##### Applicant's Annexures:

1. A-1: A true copy of Penalty Charge Memo bearing No.J/G.50/HQ/98(5) dated, 28.7.98 issued by the 2nd respondent.
2. A-2: A true copy of the Penalty Advice bearing No.J/G.50/HQ/98(5) dated, 7.10.98 issued by the 2nd respondent.
3. A-3: A true copy of the Appeal dated, 1.12.98 submitted by the applicant to the 3rd respondent.
4. A-4: A true copy of the Appeal dated, 7.12.98 submitted by the applicant to the 3rd respondent.
5. A-5: A true copy of Appellate order bearing No.J/G.50/HQ/98(5) dated, 13.1.99 issued by the 3rd respondent.

##### Respondents' Annexure:

1. R-1: Explanation to the chargememo submitted by the applicant to Senior Divisional Commercial Manager, Southern Railway, Palghat.

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