

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 181 of 1995.

Monday this the 25th day of March, 1996.

CORAM:

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

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

A. Krishnan Nair,  
'Amirth',  
Post Kundamkuzhy,  
(Via) Chengala,  
Kasargod District.

.. Applicant

(By Advocate Shri P.V. Mohanan)

Vs.

1. The Divisional Personnel Officer,  
Southern Railway, Palghat.

2. The Divisional Mechanical  
Engineer, Southern Railway,  
Palghat Division,  
Palghat.

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

.. Respondents

(By Advocate Shri K.V. Sachidanandan (represented))

The application having been heard on 25th March, 1996,  
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant who was a Diesel Assistant in the  
Railways, seeks a declaration that he continues to be  
in the service of respondents.

2. He was placed under suspension on 26.11.86,  
a charge sheet was issued on 8.12.86 and the suspension  
was revoked on 16.12.86. Before the enquiry made any

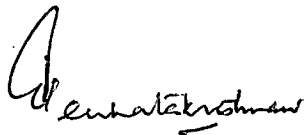
headway, applicant states that he suffered a paralytic stroke on 15.4.1987. After going through the gruelling experience, he states that he became fit to resume duties sometime in June 1994. A6 certificate is said to have been issued by an Ayurvedic Physician to this effect. Respondents rejected the request for resumption of duties by R-1. In their counter affidavit, respondents state that applicant was dismissed from service on 27.8.87 by passing R-6 order. It is said by respondents that they sent various letters to the former address of the applicant and that these were returned undelivered. The fact remains and admittedly, that the order of dismissal was not served on applicant. Rule 18 of the Railway Servants (Discipline and Appeal) Rules 1968, provides an appeal against orders of the disciplinary authority. Such appeal is to be filed within 45 days of the date on which the copy of the order of the disciplinary authority is served on the appellant. Applicant submits that he received a copy of the order dismissing him from service along with the reply statement only on 6.3.1995. In terms of Rule 18, Appellant can file an appeal. Though the appeal will be out of time, the Appellate Authority has the power to condone the delay in filing an appeal. Applicant may file an appeal within ten days of today and the Appellate Authority will consider the same and pass appropriate

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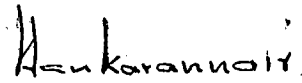
orders thereon. We are sure that the Appellate Authority will independently examine the circumstances of the case, ascertain whether applicant was lax, and pass an order that conforms both to law and justice.

3. Application is disposed of as aforesaid. No costs.

Monday this the 25th day of March, 1996.



P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A-6:- True copy of fitness Certificate issued by Dr.K.V. Sreedharan, D.A.M. Pharmacy & Dispensary, Cheruvathur, Kasaragod District dt. 29.6.1994.
2. Annexure R-1:- True copy of the letter dated 19-12-94 of the Divisional Rly. Manager, Palghat addressed to the applicant.
3. Annexure R-6:- True copy of the Penalty Advice dated 27.8.87 issued to the applicant.