

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.195/95

Thursday, this the 17th day of August, 1995.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

C Mohan,
Station Master Grade III,
Now Traffic Inspector(Station Working Rules)
Divisional Office,
Southern Railway, Palghat. - Applicant

By Advocate Mr TCG Swamy

vs

1. Union of India through
the Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Park Town PO, Madras-3.
3. The Divisional Railway Manager,
Southern Railway,
Palghat Division, Palghat.
4. The Divisional Operating Superintendent,
Southern Railway,
Palghat Division, Palghat.
5. The Divisional Safety Officer,
Southern Railway,
Palghat Division, Palghat. - Respondents

By Advocate Mr PA Mohamed

The application having been heard on 17.8.95 the Tribunal
on the same day delivered the following:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant who is a Station Master Grade III in the Southern
Railway was charged with "violation of Rule 4.42(iii)(b) of GRS

1976" by A8 order dated 4.5.89 which was issued by the Divisional Safety Officer, Palghat. Applicant was punished with reduction of his grade for a period of two years with recurring effect with loss of seniority. Applicant thereupon filed an appeal A10. While the appeal was pending a review order was passed without adverting to the appeal and applicant challenged this in OA-449/92. The Tribunal held that the second respondent therein had no power to consider the appeal which was filed by the applicant before the third respondent who is the appellate authority and on the ground of procedural irregularity, the order passed in review was quashed. There was also a direction to the third respondent to dispose of the appeal and applicant was permitted to supplement his appeal. Applicant accordingly submitted a further supplementary appeal A14. These were disposed of by appellate order A15 which confirms the orders passed by the disciplinary authority.

2. Applicant has prayed that the orders A8 passed by the disciplinary authority and the orders A15 passed in appeal be quashed. Among the various grounds he has advanced is one pertaining to the jurisdiction of the disciplinary authority. As mentioned earlier, A8 order was passed by the Divisional Safety Officer. Applicant contends that he belongs to the Traffic Department while the Divisional Safety Officer belongs to Safety Department with a separate Head of the Department at Headquarters. Applicant also urges that in terms of Railway Board instructions dated 16.10.73 produced at A16, the disciplinary authority in the case of applicant should belong only to the operating department irrespective of the nature of duties relating to the disciplinary proceedings.

3. The Railway Board's letter A16 dated 16.10.73 states:

"It has been brought to the notice of the Railway Board that some difficulties are being experienced in initiating and finalising the disciplinary proceedings...It has also been mentioned in respect of the category of Assistant Station Masters/Station Masters, the disciplinary action is initiated and finalised both by the Divisional Safety Officer and the Divisional Commercial Superintendent depending on the department to which the irregularity committed pertains despite the fact that the Assistant Station Masters and Station Masters belong to the operating department.

2. The matter has been carefully considered by the Board and in consultation with their legal adviser, it is clarified that a railway servant essentially belongs to only one department even though in the course of the performance of his day to day duties, he may violate certain rules/regulations administered by some other department. The Assistant Station Masters and the Station Masters belong to the operating department even though they may have to perform the duties pertaining to the commercial department also from time to time. The disciplinary authority in their case would thus belong only to the operating department and none else. If any other practice is being followed, that is irregular and should be stopped forthwith."

(Emphasis added)

4. Learned counsel for respondents submitted that the action taken by the Divisional Safety Officer is in order in view of instructions R1 and R2 dated 10.2.95 and 7.7.80 respectively. These instructions state that Divisional Safety Officers have power to initiate disciplinary action against the staff of traffic department.

5. We notice that the instructions relied upon by the respondents R1 and R2 are not in conformity with the instructions

issued by the Railway Board in A16. In such a conflict of instructions, the Railway Board instructions A16 will have to prevail, especially when the said instructions themselves state that if any other practice was being followed, it is irregular and should be stopped forthwith. This specific question came up also before another Bench of the Tribunal in OA-941/91(Madras Bench). We notice that that OA is on all fours with this case. The applicant there was also a Station Master Grade III working in the Southern Railway and he had been charge sheeted by the Divisional Safety Officer of the division concerned. The Tribunal relying on the same letter of the Railway Board dated 16.10.73 stated:

"It is very clear from the above that the disciplinary authority in respect of Station Masters could only belong to the operating side and none else.

11. The Railway Board by its letter dated 6.7.1979 reiterated the same orders as follows:

Railway Board's letter No.E(D/A)78 RD 6-15 dated 6.7.1979.

An employee cannot be treated as under the administrative control of more than one department. Therefore, there is no necessity of making any amendment in the Railway Servants(Discipline and Appeal)Rules, 1968. The instructions as contained in Board's letter No.E(D/A)72 RG 6-13 dated 16.10.1973 and reiterated in their letter of even number dated 10.01.1979 should, therefore, continue to follow."

(Emphasis added)

12. By both the above orders, the Railway Board has set the matter beyond any possible doubt, particularly regarding Station Masters and Assistant Station Masters in respect of disciplinary proceedings against them. The Chief Personnel Officer had no authority to over-rule the specific

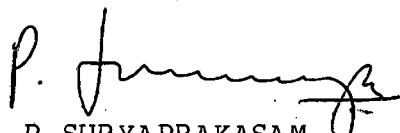
orders of the Railway Board. No order of the Railway Board cancelling or modifying the above orders have been produced before us. As we have already pointed out, even otherwise, it is but proper that the administrative superior should function as the disciplinary authority and not an outsider even if there is functional inter-relationship."

6. We are in respectful agreement with the views of the Tribunal as set out above by the Madras Bench. On this ground of jurisdiction, the impugned order A8 deserves to be quashed.

7. In view of our finding above we consider it unnecessary to go into the other contentions raised by the applicant or to go into the merits of the case. We make it clear that we express no opinion on the merits of the case or on the facts which led to the findings. Respondents are free to take such further action in the matter as they deem fit in accordance with law.

8. The impugned order A8 stands quashed and as a consequence the orders on appeal A15 also is quashed. Application is allowed as above. No costs.

Dated, the 17th August, 1995.



P. SURYAPRAKASAM
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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