

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.212/99

Friday this the 15th day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.Shanmughan
Electrical Fitter/Train Lighting/
Highly Skilled I, Southern Railway
Ernakulam Marshalling Yard
Kochi.

...Applicant

By advocate Mr.P.K.Madhusoodhanan

Versus

1. Assistant Electrical Engineer
Southern Railway
Thiruvananthapuram.
2. The Senior Divisional Electrical Engineer
Southern Railway
Thiruvananthapuram.
3. The Divisional Personnel Officer
Southern Railway
Thiruvananthapuram.
4. Union of India represented by its
General Manager
Southern Railway, Park Town
Madras.

...Respondents.

By advocate Mr.Thomas Mathew Nellimoottil

The application having been heard on 15th June, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to set aside A-9.

2. Applicant was found guilty and was awarded the
punishment of withholding of one increment for a period
of one year with non-recurring effect as per A-6. Aggrieved
by A-6, he preferred an appeal as per A-7. The same has
been disposed of as per A-9.

3. Though various grounds are raised, learned counsel
appearing for the applicant submitted that A-9 cannot stand

the scrutiny of law for the reason that it is a cryptic order and there was no consideration of A-7 appeal by the Appellate Authority and on that ground alone A-9 is liable to be quashed.

4. Respondents have filed a reply statement, an additional reply statement and a supplemental additional reply statement.

5. The relevant portion of A-9 the impugned order reads thus:

"I perused the maintenance diary and convinced about the charges. The explanation in the appeal memo is not accepted. Hence I confirm the penalty imposed."

6. We asked the learned counsel appearing for the respondents whether the Appellate Authority has disposed of A-7 appeal preferred by the applicant as per A-9 bearing in mind Rule 22 of the Railway Servants(Discipline & Appeal) Rules, 1968. We were not enlightened on this aspect.

7. As per Rule 22 of the Railway Servants(Discipline & Appeal) Rules, 1968, the Appellate Authority shall consider whether the findings of the Disciplinary Authority are warranted by evidence on record, that whether the procedure laid down in these Rules has been complied with and if not whether such non-compliance has resulted in the violation of the provisions of the Constitution of India or in the failure of justice and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe.

8. From a bare look at A-9, it is clear that A-9 has been passed without any consideration and totally ignoring or forgetting Rule 22 of the Railway Servants (Discipline &



Appeal) Rules, 1968. It is nothing but a cryptic order. When we are here sitting in judicial review, we should know on what grounds the impugned order has been passed in order to test the correctness and sustainability of the order under challenge. A-9 totally deprives us of any opportunity to know on what ground this order has been issued and, therefore, we are not in a position to know the grounds.

9. Accordingly A-9 is quashed.

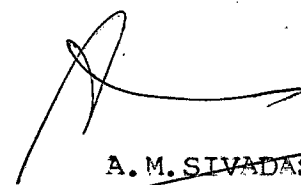
10. The second respondent is directed to consider A-7 appeal afresh and pass a considered order bearing in mind the provisions contained in Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968. It shall be done within three months from the date of receipt of a copy of this order.

11. The OA is disposed of as above.

Dated 15th June, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A-6 True copy of penalty advice No.V/E.150/1/3/DAR/KS dated 10.4.95 received by the applicant on 6.5.95 sent by the 1st respondent.
- A-7 True copy of Appeal Memorandum dated 10.6.95 filed by the applicant before the 2nd respondent.
- A-9 True copy of letter No.V/P.227/A/95/40/Elec. dated 17.4.96 of the 3rd respondent, served on the applicant only on 31.12.98.