

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 215/98

Dated Friday the 5th day of November, 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Rajendran Nair
Peon (Under Suspension)
Office of the Divisional
Railway Manager
(General Branch)
Thycaud, Thiruvananthapuram.Applicant.

(By advocate Mr G.Sasidharan Chempazhanthiyil)

Versus

1. Divisional Personal Officer
Southern Railway
Thiruvananthapuram.
2. Senior Divisional Personal Officer
Thiruvananthapuram Central.
3. Divisional Railway Manager
Southern Railway
Thiruvananthapuram.Respondents.

(By advocate Mrs Sumathi Dandapani)

The application having been heard on 5th November 1999, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant was placed under suspension by the first respondent by order dated 19.3.96 (Annexure A-1) in exercise of powers conferred by Rule 4 proviso to Rule 5 of Railway Servants (Discipline & Appeal) Rules, 1968 as a criminal case against him was under investigation. As the subsistence allowance paid to the applicant has not been reviewed and enhanced despite passage of time, the applicant filed OA 1598/97. The OA was disposed of by order dated 17.12.97 directing the third respondent therein, the Divisional Railway Manager, Southern Railway, Trivandrum to consider the representation made by the applicant in

that regard and to pass a speaking order. Pursuant to the above direction, the third respondent issued an order dated 4.2.98 (Annexure A-8) rejecting his claim for enhancement of subsistence allowance. The applicant aggrieved by that order has filed this application for a declaration that he is entitled to have his subsistence allowance reviewed by the competent authority under FR 53 and for a direction to respondents 2 & 3 to act accordingly and to set aside A-8. It is alleged in the application that the delay in the investigation and trial is not on account of any reason directly or indirectly attributable to the applicant and, therefore, there is no justification in not reviewing and enhancing the quantum of subsistence allowance payable to the applicant.

2. Respondent in the reply statement contend that as the criminal case under investigation is still not complete and as there was no advice forthcoming from the State Police Authorities regarding the reinstatement of the applicant, the applicant could not be reinstated revoking the suspension. They also contend that the applicant is not entitled to get the enhanced subsistence allowance. Para 1342 of Indian Railways Establishment Manual Vol. II mandates that if the period of suspension exceeds three months, then the quantum of subsistence allowance should be reviewed and varied by the competent authority and that if the prolonged suspension is directly attributable to the Railway servant, the competent authority is empowered to reduce the quantum of subsistence allowance and if not attributable to the Railway servant, to enhance it by a suitable amount not exceeding 50% of the subsistence allowance already granted.

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3. It is evident from what is stated in the impugned order as also in the reply statement that for the prolongation of the suspension, the applicant is not even remotely at fault. The applicant is not responsible for his prolonged suspension and, therefore, in accordance with the provisions contained in para 1342 of IREM Vol. II, the third respondent is bound to enhance the subsistence allowance as per rules.

4. In the light of what is stated, we set aside A-8 order and direct the third respondent to review and enhance the subsistence allowance in accordance with the provisions contained in para 1342 of IREM Vol.II since the prolongation of the suspension is not due to any reason attributable to the applicant at all, with effect from the due date and to make available to the applicant the arrears resulting therefrom within one month from the date of receipt of a copy of this order.

There is no order as to costs.

Dated 5th November, 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. V. HARIDASAN
VICE CHAIRMAN

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Annexures referred to in this order:

A-1: True copy of the order No.V/CS/415/Criminal case dated 19.3.96 issued by the first respondent.

A-8: True copy of the order No.V/CS/415/Criminal Case dated 4.2.98 issued by the first respondent.