

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
\*\*\*\*\*

OA 24/2003

Monday, this the 17th day of March, 2003.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

C. Krishnankutty,  
S/o P.T. Chami,  
(Ex. Cabin Man-II,  
Southern Railway, Ullal Railway Station),  
Residing at "Wariams" SDPY Road,  
Palluruthy, Kochi-6. .... Applicant

( By Advocate Mr. T.C. Govindaswamy )

Vs

1. Union of India rep. by the  
General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town P.O.,  
Chennai-3.
2. The Senior Divisional Personnel Officer,  
Southern Railway,  
Palghat Division,  
Palghat.
3. The Divisional Railway Manager,  
Southern Railway,  
Palghat Division,  
Palghat.
4. The Senior Divisional Operations Manager,  
Southern Railway,  
Palghat Division,  
Palghat. .... Respondents

( By Mrs. Rajeshwari Krishnan )

The application having been heard on 17.3.2003, the  
Tribunal on the same day delivered the following :

ORDER

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

The applicant, Cabin Man-II, Southern Railway, Ullal Railway Station was by order dated 21.11.1996 removed from service as a result of disciplinary proceedings held against him. The appeal and revision petition were unsuccessful. Therefore the applicant filed OA No.971/2000 before this Bench of the Tribunal. The Tribunal finding that the authority, who issued

the order of removal from service had no jurisdiction to do so, set aside the Disciplinary and Revisional Orders, however, reserving liberty to Railway Administration to proceed against the applicant in accordance with law. Pursuant to the above order of the Tribunal, the 4th respondent issued Annexure A2 order dated 23.11.2001 reinstating the applicant in service with immediate effect and placing him under suspension pending further DAR action de novo. On 8.12.2001, the applicant reported for duty. As the arrears of pay and allowances consequent on the setting aside of the order of the applicant's removal from service was not paid to him, and he was not paid subsistence allowance according to the pay and allowances drew by him, and the subsistence allowance has not been reviewed and revised, the applicant has filed this application for the following reliefs :-

(a) Direct the respondents to pay the applicant the arrears of pay, allowance, bonus etc. for the period from 21.11.1996 to 7.12.2001, as if the applicant had not been removed from service within a time limit as may be found just and proper by Hon'ble Tribunal.

(b) Direct the respondents to revise and pay the applicant's subsistence allowance for the period from 8.12.2001 taking into consideration, the basic pay and allowance which the applicant would have drawn had he continued in service without break up to 7.12.2001.

(c) Direct the respondents to review and revise the applicant's subsistence allowance with effect from 8.3.2002 and pay the same at the rate of 75% of the pay and allowance, which the applicant would have drawn had he continued in service upto 7.12.2001.

2. The respondents in the 1st reply statement contended that in terms of Rule 1343 and 1344 of the Indian Railway Establishment Code Volume II, subsistence allowance payable to the applicant is limited to a period of 3 years immediately preceding the date of his reinstatement, and that the applicant's claim for full pay and allowances is not sustainable. However, when the applicant filed rejoinder producing Annexure A5 and A6 and contending that the provisions restricting pay and allowances to 3 years preceding reinstatement has been deleted, the respondents filed an additional reply statement conceding that

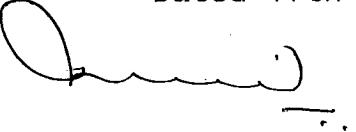
M

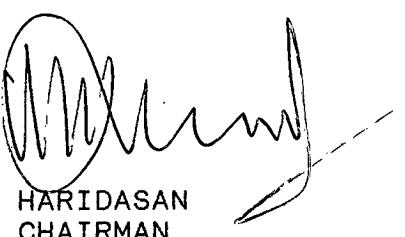
the period of limitation for pay and allowances does not exists now, but contending that since the respondents have already issued Annexure R2 show cause notice to the applicant giving him an opportunity to make representation and therefore the applicant has no reason for any grievance.

3. When the application came up for hearing, the learned counsel on either side agree that the application may be disposed of permitting the applicant to give a reply to Annexure R2 show cause notice and directing the 2nd respondent or any other competent authority to take a decision on the claim for pay and allowances due to the applicant and method of regulating the period between 21.11.1996 to 7.12.2001 and also directing the 4th respondent to review and revise the subsistence allowance of the applicant in accordance with law w.e.f. 8.3.2002.

4. In the light of the above submission of the counsel on either side, we dispose of this application permitting the applicant to make a representation in reply to Annexure R2 notice to the 2nd respondent within 2 weeks from today and directing the 2nd respondent to have a decision in regard to the claim of the applicant for pay and allowances for the period between 21.11.1996 to 7.12.2001 due to the applicant and regarding regulating the period by the competent authority within 4 weeks after receipt of the representation and also directing the 4th respondent to review the subsistence allowance w.e.f. 8.3.2002 and issue appropriate orders within 4 weeks from the date of receipt of a copy of this order. No costs.

Dated 17th March, 2003.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

oph