

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

D.A. No. 257 of 1996.

Tuesday this the 9th day of April 1996.

CORAM:

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

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

K.V. Pradeep Kumar,
Section Controller,
Control Office,
Southern Railway,
Thiruvananthapuram.

.. Applicant

(By Advocate Shri P.B. Suresh Kumar)

Vs.

1. Southern Railway, represented by
The General Manager,
Southern Railway, Madras.
2. The Chief Personnel Officer,
Southern Railway, Madras.
3. The Divisional Railway
Manager, Southern Railway,
Thiruvananthapuram.
4. The Senior Divisional Operating
Superintendent, Southern Railway,
Thiruvananthapuram.
5. A. Shanmughavelu, Deputy Chief
Controller, Southern Railway,
Thiruvananthapuram.
6. S. Arulselvam, Deputy Chief
Controller, Southern Railway,
Thiruvananthapuram.
7. K.G. Sasikumar, Deputy Chief
Controller, Southern Railway,
Thiruvananthapuram.
8. K.J. Unnikrishnan, Deputy Chief
Controller, Southern Railway,
Thiruvananthapuram.

.. Respondents

(By Advocate Mrs. Sumathi Dandapani (for R.1-4) (represented))

The application having been heard on 9th April 1996,

the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant who was recruited as a Traffic Apprentice, seeks a direction to respondents to absorb him in the cadre of Section Controller. He relies on an order of the Madras Bench of this Tribunal (A-6), wherein the Tribunal directed a Traffic Apprentice to be posted as Section Controller, and granted him seniority, pay fixation and other benefits. Applicant relies on this. By comparison of his case with that of the applicant in A-6, he seeks relief.

2. Rights must be determined by reference to valid rules/orders governing a given case. These are not matters to be decided on opinions or impressions or even notions of fairness and equity. Article 309 provides for framing of rules governing conditions of service. So do, statutory enactments, in some cases. The purpose behind such enactments is to regulate conditions of service by known rules, and to eschew arbitrariness in matters of employment under the State. Opinions or impressions cannot do service for rules in these areas, however sound the opinions be. As observed by the Constitution Bench of the Supreme Court in S.G. Jai Singhani Vs. Union of India and others (AIR 1967 SC 1427):

....3/-

" In a system governed by rule of law discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the anti-thesis of a decision taken in accordance with the rule of law ... Law has reached its finest moments....when it has freed man from the unlimited discretion of some ruler."

(Emphasis added)

We find that the case on hand was decided not by rules, not by known principles, but by opinions, if not humour.

A situation where unguided discretion enures to an authority, is a situation that the rule of law does not countenance.

3. Respondent Chief Personnel Officer pointed out that:

" The principles given in O.A. 828/89 is that a person in the higher merit order would be required to be given the higher scale of pay viz., 1400-2600."

We do not read the order of the Madras Bench as laying down or enunciating any principle. On the facts of that case, the Bench issued a direction. The decision, therefore, is not precedent or stare decisis. Cases cannot be decided by comparisons and opinions, but only by application of known principles, that have sustaining vitality and that

.....4/-

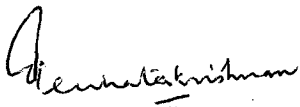
are referable to the fountain-head of authority.

Annexure 7 cannot therefore stand.

4. The Chief Personnel Officer will reconsider the matter and take a decision with reference to the rules/orders having the force of law governing the case. Applicant may set out his case in detail and a decision will be taken thereon within four months of the date of receipt of the representation. We make it clear that we have not expressed any opinion on the merits of the case.

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

Tuesday this the 9th day of April, 1996.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

rv10/4

LIST OF ANNEXURES

1. Annexure A6: True copy of the Judgement in O.A.No.828 of 1989 of the Madras Bench of the Tribunal dated 6.9.1991.
2. Annexure A7: True copy of the communication No.P(S) 99/II /OA/1702/91 issued by the second respondent to the third respondent dated 13.11.1995.

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