

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A.No.266/2004
Wednesday this the 7th day of April 2004

C O R A M;

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

K.M.Sutheendran, S/o K.Madhavan,
Junior Engineer Gr.I/Permanent Way/
Southern Railway, Shornur, residing at:
Railway Quarters No.23-A, Shornur-1.

Applicant.

(By Advocate Mr.T.C.Govindaswamy)
Vs.

1. Union of India represented by the General Manager
Southern Railway, Headquarters Office, Park Town P.O
Chennai.
2. The Divisional Railway Manager
Southern Railway, Palghat Division, Palghat.
3. The Divisional Engineer
Central, Southern Railway, Palghat Division, Palghat.

Respondents.

(By Advocate Mr.Thomas Mathew Nellimootttil)

This application having been heard on 7.4.04 and on the
same day the Tribunal delivered the following:

O R D E R

HON'BLE MR.K.V.SACHIDANANDAN, VICE CHAIRMAN

The applicant who is presently working as a Junior
Engineer Gr.I, Permanent Way in Shornur Railway Station of
Southern Railway, Palghat, was issued with a charge memo Anxx.A2
with imputation of charge of certain dereliction of duty
committed by him. The Inquiry Officer after elaborate enquiry,
it is averred in the O.A, found that the applicant is not guilty
of any charge. The disciplinary authority by descending note
found him guilty of part of the charge. On the strength of such
finding, a penalty advice was issued to him by the disciplinary
authority on 16.3.2003 (Anxx.A1) imposing a penalty of reduction
by three stages for a period of 3 years with effect of



postponing future increment. Aggrieved by the said action of the respondents, the applicant has filed this O.A seeking the following relief:

- (a) Call for the records leading to the issue of Annx.A1 and quash the same.
- (b) Direct the respondents to grant all consequential benefits as if Annx.A1 had not been issued at all.
- (c) Award costs of and incidental to this Application.
- (d) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

2. When the matter came up for hearing, Mr.Thomas Mathew Nellimoottil, takes notice on behalf of the respondents and submits that even in the penalty advice there is a provision for filing an appeal within 45 days from the date of receipt of the advice which remedy has not been exhausted at this juncture by the applicant. The counsel on either side agree that the application may be disposed of by a limited direction to file an appeal before the appellate authority, the respondent No.2 and direct them to dispose of the same within a prescribed time.

3. Considering the interest of justice, we also are of the view that such limited direction can be issued. Therefore, we direct that the applicant may file the appeal before the respondent No.2 within the prescribed time and on receipt of such an appeal the appellate authority shall dispose of the same within a time frame of three months from the date of receipt of such appeal. In the interest of justice, we direct that the penalty advice should not be acted upon till the disposal of the appeal. With the above direction, the O.A is disposed of at the admission stage. In the circumstances no order as to costs.

(Dt. 7.4.2004)

H.P.Das.

(H.P.Das)
Administrative Member

(K.V.Sachidanandan)
Judicial Member

kkj