

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 303 of 1997.

Tuesday this the 5th day of October, 1999.

CORAM:

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

HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

C. Ramasamy,  
(Ex. Safaiwala Jamedar,  
Southern Railway, Karur),  
C/o Smt. Mary Vijaya,  
"OMC" - Lane,  
Old Ooty,  
Ootacamund,  
Tamilnadu.

.. Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Divisional Medical Officer,  
Southern Railway,  
Health Unit, Karur.  
Tamilnadu.

2. The Chief Medical Superintendent,  
Southern Railway,  
Railway Hospital, Palghat.

3. Divisional Personnel Officer,  
Southern Railway, Palghat.

4. Union of India represented by  
the General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town P.O., Madras-3.

.. Respondents

(By Advocate Shri P.A. Mohammed) : C.G.C

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

O R D E R

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

The applicant seeks to declare that he stood voluntarily  
retired from Railway Service with effect from 19.8.1995 and  
therefore, subsequent proceedings culminating in Annexure A1  
is honest and inoperative in law, to direct the respondents  
to grant him the retiral benefits and to quash Annexure A1.

2. The applicant was working as Safaiwala Jamadar in the Palghat Division of Southern Railway. As per A-1 order dated 15.3.1996, he was awarded the punishment of removal from service. The applicant has raised a ground that the first respondent, the Divisional Medical Officer, is not competent to issue A-1 order and therefore, A-1 is *prima-facie* lacking legal validity.

3. After arguing the case at length by both sides, the learned counsel appearing for the applicant submitted that it is suffice to direct the 2nd respondent to consider and dispose of A-7 Appeal preferred by the applicant against Annexure A-1 order as per which he was removed from service.

4. Respondents in their reply statement have stated that though the applicant has produced an appeal addressed to the Chief Medical Superintendent in Palghat dated 30.4.96(A7), the same has not been received by the Appellate Authority. The applicant emphatically stated that he has submitted an Appeal dated 30.4.96. There is no denial by the respondents that the applicant has not preferred an appeal. The applicant has got a statutory right to prefer an Appeal and that right cannot be taken away. As the case of the respondents is that the Appellate Authority has not received A-7 Appeal, that problem can be solved by directing the applicant to present a true copy of A-7 before the Appellate Authority and obtain acknowledgement. The learned counsel for the respondents submitted that now the time prescribed for appeal has expired. According to the applicant he has preferred an Appeal A7 within the time. A-1 is dated 15.3.1996. It was made clear in A1 that, appeal if any, is to be preferred within forty five days from the date of receipt of A-1. Even computing forty five days from the date of Annexure A-1

i.e. 15.3.96, since 15.3.96 is to be excluded, the applicant gets time upto 30.4.96 for preferring the appeal. Then the appeal is well within the time.

5. The applicant is accordingly permitted to submit a true copy of A-7 to the 2nd respondent within two weeks from today. If the same is received by the 2nd respondent, he shall consider the same and pass appropriate orders within three months from the date of receipt of the same. It is made clear that there will be no bar of limitation.

6. Accordingly, O.A. is disposed of. No costs.

Dated the 5th October, 1999.

J.L. NEGI  
J.L. NEGI  
ADMINISTRATIVE MEMBER

A.M. SIVADAS  
A.M. SIVADAS  
JUDICIAL MEMBER

rv

List of Annexured referred to in the order:

Annexure A-1 : A true copy of the penalty Advice bearing No. 24\$KRR/CR/96 dated 15.3.96 issued by the first respondent.

Annexure A7 : A true copy of the appeal dated 30.4.96 submitted by the applicant to the 2nd respondent.