

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.313/2002

Dated Friday 7th day of November, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

U.Narayanan  
S/o N.P.Raman Nambisan  
Ex-Traffic Porter, Southern Railway  
Netravathi Railway Station  
Residing at Thiyyakandy House  
Kolathur P.O. Atholi (via)  
Calicut District.

Applicant.

(By advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the  
Secretary to the Government of India  
Ministry of Railways, Rail Bhavan  
New Delhi.
2. General Manager  
Southern Railway  
Headquarters Office, Park Town P.O.  
Madras.
3. The Chief Operations Manager  
Southern Railway  
Headquarters Office  
Park Town P.O., Chennai.
4. The Additional Divisional Railway Manager  
Southern Railway  
Palghat Division, Palghat.
5. The Divisional Operations Manager  
Southern Railway  
Palghat Division, Palghat.
5. Chief Passenger Transportation Manager  
Southern Railway, Headquarters Office  
Park Town P.O.,  
Chennai.

Respondents.

(By advocate Mr.Thomas Mathew Nellimoottil)


The application having been heard on 7th November, 2003,  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant, an ex-traffic porter, was, by A-1 order  
dated 12th Dec.2000, removed from service, on culmination of a

departmental disciplinary proceeding against him. The allegation contained in the article of charges was that while working as Gate Keeper at KM 725/1-2 from 11.00 hours to 21.00 hours duty on 8.11.97, after exchanging PN (Private Number) for 526 Passenger at 12.30 hours, he did not either close the gate or open the same after passage of the train, that the GDR of 526 Passenger had to close and open the gate and that he had been found to be under the influence of liquor during the duty hours. The applicant filed an appeal against the impugned order, raising various contentions such as that the enquiry had been held not in conformity with rules, that he was not afforded a reasonable opportunity to defend himself by permitting to examine himself or to call witnesses and also requesting that he be given a personal hearing before disposal of the appeal. However, the appeal was rejected by A-2 order dated 29.6.01. Aggrieved, the applicant filed a revision petition to the General Manager, which was rejected by A-3 order dated 18.2.02 finding no reason to interfere with the penalty. Aggrieved, the applicant has filed this application seeking to set aside A1, A2 and A3 and for consequential benefits. It has been alleged in the application that the applicant had been denied a reasonable opportunity to defend himself in as much as he was not allowed to cross examine the medical officer and the Inspector of Police, that he was not questioned as required under Sub Rule 21 of Rule 9 of the Railway Servants (Discipline & Appeal) Rules, that the appellate authority did not consider his appeal as required under Rule 24 (1) of the said Rules, that the penalty awarded was grossly disproportionate and that the revisional authority rejected the applicant's appeal on the presumption that he was a Group-D employee and that a similar penalty in the case of a Group-D employee had been set aside by the Tribunal in OA 35/99.

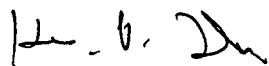


2. The respondents seek to justify the impugned orders.

3. When the application came up for hearing, finding that the appellate authority has not taken a decision on the request of the applicant for a personal hearing and for other reasons, the counsel on either side agree that the application may be disposed of directing the appellate authority to reconsider the appeal of the applicant A-7 in detail after affording the applicant an opportunity for a personal hearing.

4. In the light of the above submissions of the learned counsel on either side, the application is disposed of setting aside A-2 & A-3 orders and remitting the matter back to the 3rd respondent to reconsider the appeal of the applicant in detail after affording the applicant an opportunity for a personal hearing and dispose it of by a speaking order within 4 months from the date of receipt of a copy of this order.

Dated 7th November, 2003.



H.P.DAS  
ADMINISTRATIVE MEMBER



A.V.HARIDASAN  
VICE CHAIRMAN

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