

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 325 OF 2011

Wednesday, this the 9th day of November, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

M.K.Vijayan
Mullakkkal House
Choolissery PO, Kolagattukara
Mundoor (via), Thrissur District

... Applicant

(By Advocate Mr. Joswin Thambi Kunnath)

versus

1. Union of India represented by its Secretary
Ministry of Railway
New Delhi -1

2. Assistant Divisional Engineer
Southern Railway
Ernakulam – 16

3. Senior Divisional Engineer
Divisional Office
Personal Branch
Southern Railway
Thiruvananthapuram – 695 014

... Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

The application having been heard on 09.11.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant was an employee in the Railway service with effect from 01.01.1985. He was a drainage Khalasi at Section Engineer Office, Works at Ernakulam. For long unauthorised absence he was charge sheeted and an enquiry was conducted in the matter. The long absence is not seriously disputed. He contends that the long absence was due to rheumatism and he could not be present for work. The inquiry authority found him guilty of charges and imposed punishment of removal from service. He preferred an appeal. On finding that all



DAR procedures have been correctly followed, the Appellate Authority has confirmed penalty of removal from service and there is no warrant for interference. Thereafter, he filed a revision before the higher authority, the Senior Divisional Engineer, Trivandrum. The higher authority imposed a lesser punishment, i.e the removal from service was modified as compulsory retirement. The only question that arose for consideration is as to whether the compulsory retirement imposed by the Revisional Authority is liable to be quashed.

2. The facts are not in dispute though the applicant was absenting from work for considerable long period and he was ultimately charge sheeted and an enquiry has been held strictly adhering to the principles of natural justice. The Revisional Authority reduced the punishment into one of compulsory retirement. We do not find in the factual situation the finding is either perverse or procedure established by law has not been complied with. We are satisfied with the procedural formalities and he was found guilty based on materials proved in the enquiry. It has been held by the Apex Court that in the exercise of judicial review of administrative action, disciplinary proceedings cannot be interfered with unless the finding is perverse or the punishment inflicted is shockingly disproportionate. We find no such circumstances exists. We find no merit in the OA and the same is dismissed. Whether or not he is eligible for pension, does not arise for consideration in this OA and the same is left out.

Dated, the 9th November, 2011.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

vs