

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 344 of 2003

Tuesday, this the 22nd day of April, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. R. Jayakumar,
S/o S. Ramalingam,
Diesel Assistant, Southern Railway,
Mangalore
Residing at: Railway Quarters No.106-C,
Opp. "RRI" Cabin, Mangalore R.S & PO.Applicant

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town PO, Chennai-3
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Chennai-3
3. The Divisional Mechanical Engineer,
Southern Railway, Palghat Division, Palghat.
4. The Senior Divisional Mechanical Engineer,
Southern Railway, Palghat Division,
Palghat.Respondents

[By Advocate Mrs Rajeswari Krishnan]

The application having been heard on 22-4-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

This is a case where a charge memo was issued against the applicant, while he was working as Diesel Assistant at Coonoor under the Palghat Division of Southern Railway. The gist of the charge against the applicant was that while functioning as Fireman, he did not turn up for duty at 08.00 hours to work the booked train No.672 Passenger from Mettupalayam to Coonoor on 21-4-2002. The applicant's case is that under the Rules, he was not bound to report exactly at

8.00 AM. Since the relevant train was to leave at 09.10 hours and as such, he was to report for duties sufficiently in advance. The applicant would submit that he reported for duty at 8.30 in the morning, but was refused to do duty. However, Annexure A-2 charge memo was issued. The applicant was awarded a penalty of reduction in rank from Diesel Assistant to Helper-II, (Loco) on pay Rs.2550/- in the scale of Rs.2550-3200 for a period of one year (Non-recurring), by Annexure A6 order dated 24-3-2003. Both A-2 charge memo and A-6 penalty order are impugned in this OA.

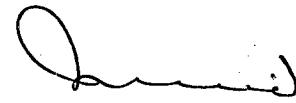
2. The applicant has not filed any appeal, although the statute provides for it. The OA does not make it clear that all remedies are exhausted. Smt.Rajeswari Krishnan, learned counsel for the respondents, therefore opposed the admission of the OA. However, when the hearing was in progress, both the counsel agreed that the OA could be disposed of by permitting the applicant to file an appeal against the impugned orders within a stipulated time and directing the respondents to cause it to be disposed of by the appellate authority within a time frame. It was also agreed by the learned counsel for respondents that till the appeal is disposed of, the impugned A-6 order would not be implemented. Both the counsel would, therefore, agree that the OA can be disposed of on the above understanding.

3. Taking note of the above submissions of the learned counsel on either side, I dispose of the Original Application by allowing the applicant to file an appeal as desired within two weeks from today and directing the competent respondent to dispose of the same, if filed as above, within two months from

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date of its receipt as agreed upon. Till the appeal to be filed by the applicant as indicated above is disposed of, the impugned Annexure A6 order shall not be implemented. No costs.

Tuesday, this the 22nd day of April, 2003



**T.N.T. NAYAR
ADMINISTRATIVE MEMBER**

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