

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 366 of 1999

Tuesday, this the 26th day of June, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. N. Somasundaram,
S/o Govindan Nair, Senior Booking Clerk,
Southern Railway, Shornur,
Permanent Address: Nedumparambath House,
PO Tuvvoor, Malappuram District.Applicant

[By Advocate Mr. T.C. Govindaswamy (rep.)]

Versus

1. Union of India represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town PO, Madras-3
2. The Divisional Commercial Manager,
Southern Railway, Palghat Division, Palghat.
3. The Station Manager,
Southern Railway, Shornur.
4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat.Respondents

[By Advocate Mr. K.V. Sachidanandan (rep.)]

The application having been heard on 26-6-2001, 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 the following reliefs:-

- "(a) Call for the records leading to the issue of
Annexure A2 and quash the same.
- (b) Declare that the recovery of Rs.1250/- (Rupees
One thousand two hundred and fifty only) from
the applicant's salary for the wage period
ending 10.3.99 is arbitrary, discriminatory and
unconstitutional.
- (c) Direct the respondents to refund the amount of
Rs.1250/- (Rupees One thousand two hundred and
fifty only) recovered from the applicant's
salary with 18% interest calculated from
10.3.99.
- (d) Award costs of and incidental to this
Application.

- (e) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case."

2. The applicant is working as Senior Booking Clerk. He was served with a minor penalty charge memorandum dated 12-12-1997. He replied to the same as per A1 dated 8-1-1998. Thereafter, he received A2 letter which says that the Consumer Protection Forum has awarded Rs.1000/- as compensation and Rs.250/- towards the cost and as the applicant is responsible for the same, the amount is to be recovered from him. Immediately he submitted A3 reply. There was no response to A3. However, from his salary for the period ending 10-3-1999 the 4th respondent has recovered the entire amount of Rs.1250/-. It is arbitrary and illegal. A2, the impugned order, was issued in violation of the principles of natural justice.

3. Respondents contend that the OA is premature and is liable to be dismissed in limine as a final decision has not been taken in the matter. The applicant has not exhausted all the remedies available. The District Consumer Disputes Redressal Forum, Palakkad has decided the case against the Department and has awarded compensation and costs. Since the applicant was responsible for the cause of action in the said consumer case, facts made out by the applicant in his reply was taken as a statement for the consumer case also. A2 was the opportunity given to the applicant either to comply the order of the Consumer Forum, Palakkad or to make an objection in case he felt aggrieved. He has not made any appeal against this order either to the Station Manager, Shornur where he is employed or to the Divisional Personnel Officer, Southern Railway, Palakkad. A2, the impugned order, says that the Consumer Protection Forum has awarded Rs.1000/- as compensation and Rs.250/- towards the costs and as the applicant is responsible for the cause of action for the said sum, this

amount is to be recovered from him. It further says that he may either asked to remit the amount of Rs.1250/- under service of office or give his willingness in writing to recover the said sum from the salary in equal instalments.

4. The first ground raised by the applicant is that A2, the impugned order, has been issued in gross violation of the principles of natural justice for no notice was given to him before issuance of A2 and no opportunity was afforded to state his grievance.

5. It is the admitted case of the applicant that in response to A2, he submitted A3 explanation to the 2nd respondent. The applicant says that A3 has not been disposed of so far. Respondents also say in the reply statement that no final decision has been taken. That being the position, the explanation submitted by the applicant (A3) is pending and as A2 was issued without notice, it is only just and reasonable that the 2nd respondent should consider A3 and pass appropriate orders.

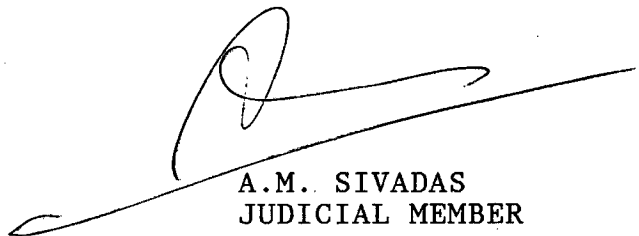
6. Accordingly, the 2nd respondent is directed to consider A3 explanation submitted by the applicant and pass appropriate orders as expeditiously as possible.

7. The Original Application is disposed of as above. No costs.

Tuesday, this the 26th day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the representation dated 8-1-98
 submitted by the applicant to the second
 respondent.
2. A2 True copy of the letter No. SRR/3/Comm1. dated
 11-1-99 issued by the third respondent.
3. A3 True copy of the representation dated 17-1-99
 submitted by the applicant to the second
 respondent.