

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAMO. A. No. 408
T. A. No.

1991

DATE OF DECISION 13.3.91

R. Pandiarajan Applicant (s)Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the Respondent (s)
General Manager, S. Railway, Madras-3 and othersMr. M. C. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENTMR. N. DHARMADAN, JUDICIAL MEMBER

The applicant, who is working as a Khalasi (Man Mazdoor) under the Permanent Way Inspector, Southern Railway, Erode, has challenged the Annexure A-4 penalty advice dated 21.2.1991. He is removed from service with the direction to vacate the quarters within one month from the date of receipt of the advice. He filed this application without filing a statutory appeal before the Appellate authority on the ground that this is a case covered by the decisions of this Tribunal and can be allowed by this Tribunal following the earlier decisions rendered by this Tribunal.

2. We are not inclined to entertain this contention of the applicant at this stage. The applicant cannot bypass a statutory appellate remedy and approach this Tribunal even if he has a crystal clear case for granting relief. The

applicant can place all these aspects before the appellate forum and get relief from there.

3. We have heard the learned counsel for the respondents also. The submission of the learned counsel for the applicant that he has a strong *prima facie* case requiring interference by this Tribunal is disputed by the learned counsel for the respondents. However, this is a matter to be examined by the Appellate authority with all seriousness and the applicant's proper remedy is to move the Appellate authority for getting relief.

4. In this view of the matter we are inclined to admit this application taking into account the peculiar circumstances of this case in the interest of justice and dispose of the same at the admission stage with directions to the respondents without examining the merits of the case.

5. Accordingly the applicant is directed to file an appeal against Annexure-4 penalty advice before the second respondent within a week from today as provided under the Rules. If the applicant files such an appeal as directed above before the second respondent, he shall consider the same on merits and dispose of ~~the same~~ ^{appeal} in accordance with law within a period of two months from the date of receipt of the appeal. Till a final decision is taken in the appeal and communicated to the applicant, the punishment imposed by the third respondent as per Annexure A-4 order shall be kept in abeyance.

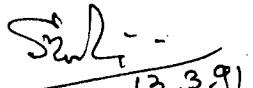
6. With these directions the application is disposed of. There will be no order as to costs.

7. A copy of this order may be given to the learned counsel for the applicant by hand.



(N. DHARMADAN)
JUDICIAL MEMBER

13.3.91



(S. P. MUKERJI)
VICE CHAIRMAN