

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex (BDA),  
Indiranagar,  
Bangalore - 560 038

Dated : 29-9-87

APPLICATION NO 1758 /86(F)

W.P. NO

Applicant V.S. Kulkarni Vs The Divisional Commercial Supt.,  
S.C. Ry and Ans.

To 1. Sri V.S. Kulkarni,  
Senior Ticket Collector,  
Office of Cui Station Supt.,  
SC Railway, Hukli, Dharwad District.

2. Sri K. Sreedhar, Advocate,  
36, Shankarapuram,  
Bangalore-4.

3. The Divisional Commercial  
Superintendent,  
South Central Railways,  
Hukli, Dharwad District.

4. The Additional Divisional  
Railway Manager,  
South Central Railway,  
Hukli, Dharwad Dist.

5. Sri H. Sreedhar, Advocate,  
S.P. Building, 15th Cross,  
Cubbonpet Main Road,  
Bangalore-2

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~  
~~INTERIM ORDER~~ passed by this Tribunal in the above said  
application on 18.9.87.

Encl : as above

Section Officer  
(JUDICIAL)

RECEIVED

2 copies 20/9/87

Diary No. 1224/CR/87

Date: 30/9/87

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 18TH DAY OF SEPTEMBER, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy ... Vice Chairman  
Hon'ble Shri L.H.A. Rego ... Member (A)

APPLICATION NO.1758 OF 1986

V.S. Kulkarni,  
S/o Shivarao Kulkarni,  
Senior Ticket Collector,  
Office of the Station  
Superintendent, Hubli,  
Dharwad District.

... Applicant

(Shri K. Sreedhar, Advocate)

VS

1. The Divisional Commercial Superintendent,  
South Central Railways, Hubli, Dharwad Dist.,
2. The additional Divisional Railway Manager,  
South Central Railway, Hubli, Dharwad Dist., ... Respondents  
(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing, Vice-Chairman  
made the following:

ORDER

In this application made under Section 19 of the Administrative  
Tribunals Act, 1985, the applicant has challenged Order No.H/C.CON/V/4/84  
dated 13.1.1986 (Annexure G) of the Divisional Railway Manager, Hubli  
and the Appellate Authority (AA), affirming Order No.H/C/CON/V/4/84  
dated 20.12.1985 (Annexure C) of the Divisional Commercial  
Superintendent, S.C.R., Hubli and Disciplinary Authority (DA).

2. In a disciplinary proceeding instituted against the applicant  
under the Railway Servants (Discipline & Appeal) Rules, 1968 ('Rules'),  
the DA on 20.12.1985 inflicted the penalty of compulsory retirement  
against him. Aggrieved by the said order, the applicant filed an appeal  
before the AA who by his order communicated on 13.1.1986 had dismissed  
the same. Hence this application.



3. Shri K.Sreedhar, learned counsel for the applicant, contends that the order made by the AA without examining the material contentions urged by his client on questions of law and fact, and the requirements of rule 22 of the rules, was not a speaking order and illegal, as ruled by the Supreme Court in RAMCHANDER VS. UNION OF INDIA (AIR 1986 SC 1173).

4. Shri M.Croerengiah, learned counsel for the respondents, sought to support the order of the AA.

5. The order made by the AA on the appeal of the applicant reads thus:

"I have gone through in detail the appeal of DE dated 6.1.86. The plea of V.I. having not attended the enquiry, by itself can't be a reason that would any way help the employees' case. He had agreed to the continuance of the inquiry on 25.9.85 without his presence, based on documents. The enquiry officer has come to the conclusion regarding the charges, based on the evidence tendered. The unaccounted portion of money found with him, stated to have been received from one of his relative, is not proved and not tenable. The defence plea has not brought out any new point, besides already stated during the course of enquiry in the reply. Therefore, the undersigned considers that there is no ground to change the penalty already issued by the Disciplinary Authority".

Without any doubt, this order suffers from every one of the infirmities noticed by the Supreme Court in RAMCHANDER's case. The order made by the AA without examining the material contentions urged by the applicant on questions of law and fact and the requirements of rule 22 of the rules is not a speaking order. In this view, the



order of the AA is liable to be quashed and a direction issued to the AA to redetermine the appeal of the applicant, without examining the validity of the order of the DA. Before the AA, the applicant, is entitled to claim for a personal hearing. If such a claim is made, the AA is bound to give him a personal hearing.

6. In the light of our above discussion, we allow this application in part, quash the order of the AA and direct the 2nd respondent to restore the appeal filed by the applicant to its original file and dispose of the same in the light of the observations made in RAMCHANDER's case.

7. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE CHAIRMAN

Sd/-

MEMBER(A)

- True Copy -

SECRETARY

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE