

URGENT  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

TODAY THE 7TH NOVEMBER, 1986

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

Application No. 1823/86

N.S. Balakrishnan  
C/o Station Master,  
Kudathini RS & PO,  
Bellary Dist.  
Karnataka - 583 115 ... Applicant

( Shri M.C.Narasimhan ... Advocate)

Vs.

1. The Divisional Railway Manager,  
South Central Railway, Hubli.
2. The Divisional Safety Officer,  
S.C.Railway, Hubli
3. Union of India, By Secretary to  
the Ministry of Railways .... Respondents

(Shri A.N.Venugopal ... Advocate)

This application has come up before Court for  
hearing today. Vice Chairman made the following:-

ORDER

This application was posted before us today for  
admission. At our direction, Shri A.N.Venugopal  
takes notice for Shri M.Sreerangaiah, learned Standing  
Counsel for South Central Railway and counsel for  
the respondents. Shri Sreerangaiah is permitted to  
file his memo of appearance for the respondents  
within 15 days from this day. We have heard Shri  
M.C.Narasimhan, learned advocate for the applicant  
and Shri Venugopal for the respondents.

....2/-

2. In this application made under Section 19 of the Administrative Tribunals Act of 1985(Act), the applicant has challenged the order dt. 24.1.86 of the Divisional Safety Officer, South Central Railway (DSO) (Annexure 'A').

3. At the material time, the applicant was working as the Assistant Station Master of Kudithini Railway Station (ASM) of South Central Railway Zone. In a disciplinary proceeding instituted against the applicant under The Railway Servants (Discipline and Appeal) Rules, 1968, (the Rules), the DSO, by his order dated 24.1.86, had inflicted on him the penalty of removal from service.

4. Aggrieved by the said order of the DSO, the applicant has filed an appeal on 31.1.86 before the Divisional Railway Manager, South Central Railway, Hubli (DRM) which is still pending disposal before him. As the DRM had not disposed of that appeal, the applicant has approached this tribunal on 5.11.86 challenging the order made by the DSO.

5. Shri Narasimhan contends that since the DRM had not disposed of the appeal of the applicant with expedition and within a period of 6 months from the date the appeal was lodged before him, this Tribunal on a true construction of Section 20(2) of the Act, was bound to entertain this application insisting and annul the order made by the DSO on examining the grounds against the same.

....3/-



6. Shri Venugopal contends that notwithstanding the delay in the disposal of the appeal by the DRM for more than 6 months, this Tribunal should decline to exercise its jurisdiction under the Act except for issuing a direction to the DRM to dispose of the appeal of the applicant with expedition.

7. Section 20 (2) of the Act undoubtedly empowers this Tribunal to entertain an application under Section 19 of the Act if an authority before whom a statutory relief as in the present case, was sought does not dispose of the same within a period of six months from such date or thereafter. But the Act in our view does not compel us to entertain an application on the sole ground that the appellate authority had not disposed of the appeal within a period of six months from the date the appeal is lodged before him. The Act only confers power on the Tribunal to entertain an application but does not confer a right on the person to get the same entertained by the Tribunal on the sole ground that the appellate authority had not disposed of his appeal within 6 months. We are therefore of the view that the contention of Shri Narasimhan that this Tribunal is bound to entertain this application on the ground that the DRM had not disposed of the application within 6 months, has no merit. But this does not necessarily mean that this Tribunal can arbitrarily and mechanically reject an application

also. The admission or rejection must be based on sound judicial principles and should not be arbitrary.


8. We must now examine whether this is a fit case for our interference at this stage.

9. An appeal lies before the DRM both on questions of law and fact and therefore he is bound to examine every one of the grounds urged before him and decide them one way or the other. We cannot also rule out the possibility of the DRM even granting the very reliefs sought in this application in which he will have no grievance to urge also. We are of the view that this is not a fit case in which this Tribunal should entertain the application before the DRM examines and decides the appeal before him.

10. We find that the applicant filed his appeal as early as on 31.1.86. We are distressed at the delay in the disposal of the appeal by the DRM.

11. Whenever appeals are filed, that too against orders of dismissal and removal which result in deprivation of earnings, the appellate authorities must make every endeavour to dispose of such appeals with all such expedition as is possible in the circumstances of the case. We find no justification for the delay in the disposal of the appeal of the applicant by the DRM and we should therefore direct him to dispose of the same with expedition.

.....5/-




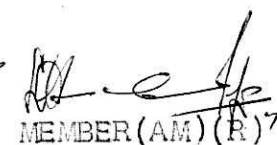
12. In the light of our above discussion, we make the following orders and directions:

(i) We reject this application directed against order dt. 24.1.86 of the DSO without examining its merits at this stage.

(ii) We direct the Divisional Railway Manager, South Central Railway, Hubli, respondent no. 1 to dispose of the appeal filed by the applicant on 31.1.86 against order dated 24.1.86 of the DSO(Annexure A), bearing in mind the principles enunciated by the Supreme Court in Ram Chander Vs Union of India 1986(2) SLR 608 with all such expedition as is possible in the circumstances of the case and in any event within a period of 3 months from the date of receipt of the order of this Tribunal.

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

14. Let this order be communicated to respondent no. 1 within 10 days from this date without fail.

  
VICE CHAIRMAN  
  
MEMBER (AM) (R) 7.2.86