

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS 18TH NOVEMBER, 1986

Present

THE HON'BLE JUSTICE SHRI K.S. PUTTASWAMY : VICE-CHAIRMAN

THE HON'BLE SHRI L.H.A. REGO : MEMBER (AM)

Application No.317/1986(T)
W.P.No.20116 of 1980

Shri C. Joseph Chacko,
Senior Clerk,
Divisional Engineer Office
(Construction) South
Central Railway, Hubli,
Dharwar District.

... Applicant

1. The Deputy Chief Engineer (C) West,
South Central Railway,
Secunderabad, Andhra Pradesh.

2. The Divisional Engineer,
(Construction),
South Central Railway,
Hubli.

Respondents

(Shri M. Sreerangaiah, Advocate)

This application has come up for hearing before this
Tribunal today, the Hon'ble Justice Shri K.S. Puttaswamy,
Vice-Chairman, made the following:

O R D E R

In this transferred application received from the High
Court of Karnataka under Section 29 of the Administrative
Tribunals Act, 1985 (Act), the applicant has challenged the
order No.H/LMT/P.227/I/CJ dated 30.7.1980 of the Deputy Chief
Engineer (C) West, Secunderabad (DEC) (Annexure D) confirming
order No.H/LMP/P.227/I/CJ/3303 dated 13.3.1980 of the Divisional
Engineer (Construction) (DEC) (Annexure-C).

2. At the material time, the applicant was working as a
Senior Depot Clerk in charge of Railway Stores at Almatti

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Railway Station of South Central Railway. He was in charge of that Stores for about two years from 1977 to 1979.

3. On 30.4.1979, the applicant was transferred to Hubli from Almatti. While handing over the charge of that Stores to the new incumbent, the authorities noticed shortages of the value of Rs.35751.03. On that basis DEC commenced disciplinary proceedings against the applicant under Rule 11 of the Railway Servants (Discipline and Appeal) Rules 1968 (Rules) and issued him an articles of charges and statement of imputations which were denied by him. On an examination of articles of charge, statement of imputations and other records, the DEC by his order dated 30.3.1980 ordered the recovery of Rs.35751.03 in monthly instalments of Rs-165/- the first instalment to commence from March, 1980.

Aggrieved by this order of the DEC, the applicant filed an appeal under Rule 19 of the Rules before the DC, who by his order dated 30.7.1980 has dismissed the same. Hence this application.

4. On transfer of this case to this Tribunal from the High Court, the applicant had been duly served with notices of hearing. But despite all of them, he is absent and is unrepresented. We have perused the records and heard Shri M. Sreerangaiah, learned counsel for the respondents.

5. We have earlier noticed that against the order of the DE, the applicant filed an appeal under Rule 19 of the Rule before the DCE, who has dismissed the same on 30.7.1980 in these words:

"Your above appeal has been carefully considered by the Appellate Authority viz. Dy. Chief Engineer (C) West and it has been decided that there are no grounds to review the decision of the D.A.".

Without any doubt, this order made by the DCE is not in conformity with Rule 22 of the Rules and is not a speaking order requirements of which have been explained by the Supreme Court in Ram Chander v. Union of India and other 1968 (2) SLR page 608. When we find that

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the order made by the appellate authority is not a speaking order, laconic and arbitrary, this Tribunal has no option but to set aside that order and direct the appellate authority to reconsider the same in accordance with law.

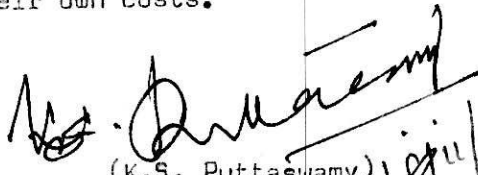
6. While issuing rule nisi, the High Court on 29.10.1980 had stayed the recoveries. As we have now taken the view that the matter should be remitted to the appellate authorities, we consider it proper not to continue that stay order till the appellate authorities decides the appeal and permit the recoveries ordered by the DE.

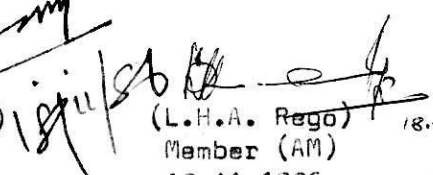
7. In the light of our above discussion, we make the following orders and directions:

(1) We quash the order No.H/LMT/P.227/I/CJ dated 30.7.1980 of DEC and direct him to restore the appeal filed by the applicant to original file and dispose of the same in accordance with law and the observations of the Supreme Court in Ram Chander's case.

(2) We refuse to continue the interim orders of stay issued by the High Court on 20.8.1980 which necessarily means that recoveries can be made from the applicant unless otherwise stayed by the appellate authority.

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


(K.S. Puttaswamy)
Vice-Chairman
18.11.1986


(L.H.A. Rego)
Member (AM)
18.11.1986