

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 27 NOVEMBER 1986

Present : HON'BLE JUSTICE SHRI K.S. PUTTASWAMY - VICE CHAIRMAN  
HON'BLE SHRI L.H.A. REGO - MEMBER (A)

APPLICATION NO 1098/86(T)  
(W.P. 7739/83)

K.V. Chandrasekhar,  
Son of K.V.Kunhirama Panickar,  
Plant Mechanic Grade II,  
PW.I/CN/SKLR  
(Sh M.S. Anand Ramu, Advocate)  
Vs

- Applicant

1. The Union of India represented  
by the Secretary to the Govt.  
of India, Ministry of Railways,  
Rail Bhavan, New Delhi.

2. The Executive Engineer,  
Construction, Hassan—  
Mangalore Railway Project,  
Sakaleshpur, Hassan Distt.

- Respondents

(Sh M. Sreerangaiah, Advocate)

This application has come up for hearing before the  
Tribunal today. 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, the applicant has challenged Order No  
P.407/1/PRJ/SKLR dated 7.3.1983 (Annexure-C) of the  
Executive Engineer/CN, Sankleshpur (EE).

2. The applicant joined service as a Plant Mechanic on  
19.2.1974 in the Southern Railways (SR), and has been working  
eversince then in one or the other office of SR. On 7.3.1983,  
the EE has terminated the services of the applicant. Hence  
this application.

3. The applicant has urged that this termination for  
an alleged misconduct was in contravention of Article 311(2)  
of the Constitution and the Railway Servants (Discipline and

Appeal) Rules, 1968 (the rules).

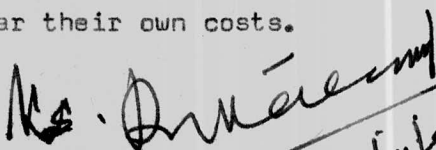
4. The respondents have resisted this application.


5. Shri M.S. Anandramu, learned counsel for the applicant contends that the order made by EE without holding an enquiry and providing his client an opportunity of hearing was in contravention of Article 311(2) of the Constitution, and the 'Rules'.

6. Shri M. Sreerangaiah, learned Standing Counsel for the Railways, sought to support the order of the EE.

7. The assertion of the applicant that he has been removed from service without holding an enquiry and affording him a reasonable opportunity in contravention of Article 311(2) of the Constitution and the Rules is not denied by the respondents. In the absence of a denial of those pleas, we must necessarily accept the same. Even otherwise, an examination of the order made by the EE, on the face of it discloses that it has been made by him without holding an enquiry and providing an opportunity to the applicant to defend himself. When that is so, the order made by the EE is in contravention of Article 311(2) of the Constitution, and the Rules and calls for our quashing. We therefore quash the order dated 7.3.1983 of the EE. But this does not prevent the EE from holding an inquiry against the applicant for the alleged misdemeanour in accordance with the rules.

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

  
Vice Chairman  
27/11/86

  
Member (A) 27.11.86

ak.