

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH BANGALORE

DATED THIS THE 28TH NOVEMBER 1986

PRESENT: HON'BLE SHRI CH. RAMAKRISHNA RAO, MEMBER(J)

HON'BLE SHRI P. SRINIVASAN, MEMBER(A)

APPLICATION NO. 1232/86(T)

Veerupakshiah,  
Fakeeraiah  
Tegurmah,  
aged 51 years,  
residing at -  
Shiggavimutt,  
Gadag,  
Dharwad District.

Applicant

(Shri Munir Ahmed, Advocate)

1. The Union of India,  
by Secretary,  
Ministry of Railway,  
New Delhi.
2. The Divisional Railway  
Manager,  
South Central Railway,  
Hubli,  
Dharwad District.
3. The Divisional Mechanical  
Engineer,  
Carriage Wagon,  
D.M.E., South Central Railways,  
Hubli,  
Dharwad District.

Respondents

(Shri M. Sreerangaiah, Advocate)

This application has come up for hearing before  
this Tribunal to-day, Member (J) made the following:-

ORDER

This is a transferred application received  
from the High Court of Karnataka.

The applicant who was working as a Khalasi  
in the South Central Railway at Hubli, is aggrieved

...2/-

with an order dated 22.9.1982 passed by respondent 3 the Divisional Mechanical Engineer, South Central Railway at Hubli by which he was removed from service with effect from 30.9.1982 (Annexure B) as well as the order passed by the Divisional Engineer, South Central Railway, Hubli, respondent 2 conveyed to him by letter dated 18.12.1982 (Annexure C).

Shri Munir Ahmed pleads that the order of punishment was passed by respondent 3 without giving the applicant an opportunity of being heard and this was against the principles of natural justice. Respondent 3 has proceeded on the assumption that the applicant had admitted the charges communicated to him and that, therefore, there was no need to hold an enquiry into the articles of charge. There was only one article of charge which stated that the applicant had absented himself from duty without leave between November 1981 and April 1982 on different dates. The applicant had given a reply dated 20/23-7-1982 to the Memo communicating the article of charge. In that letter, dealing with his absence on 21.11.81, he explained that he had applied for two days' compensatory rest (CR) due to him. He was at that time under orders of transfer from Hubli to Miraj. Availing of the compensatory rest, he joined duty at Miraj on 22.11.1981. He pleaded for leniency in the matter. This letter was treated as acceptance of the article of charge

and the respondent 3 proceeded to pass the order of penalty without holding an enquiry.

Shri M. Sreerangaiah, learned counsel for the respondents, asserts that the applicant had accepted the article of charge and therefore the respondent rightly dispensed with the enquiry.

We have considered the matter carefully. We do not agree that the reply dated 20/23.7.1982 to the Memo communicating the article of charge given by the applicant amounts to an acceptance of the charge. It explains the applicant's absence on one of the dates mentioned in the article of charge implying that he was not absent on that day without justification. No doubt the reply does not refer to the other dates mentioned in the article, but for that reason, it could <sup>not</sup> be taken that he accepted that charge that his absence on those dates was unjustified. We therefore feel that respondent 3 was not right in proceeding to impose the penalty without holding an enquiry and giving the applicant an opportunity of being heard. We hold that the order of the appellate authority as cryptic and can by no means be called a speaking order. In view of this, the application has to be allowed. The disciplinary ~~author~~ authority will, however, have the liberty to proceed with the matter in accordance with law. If the matter again goes up in appeal, we hope that the appellate authority will consider the matter from all angles and pass a speaking order in conformity with the judgement of the Supreme Court in Ramachandra's case.