

BEFORE THE CENTRAL ADMINISTRATIVE
TRIBUNAL, BANGALORE BENCH
BANGALORE

DATED THIS THE 27TH DAY OF NOVEMBER 1986.

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

Transferred Application No. 921/86.

K.N.Harapanahalli S/o. Narasimha Rao,
aged about 58 years, retired Railway
employee, residing at Bagalkot. .. Applicant
(Shri Munir Ahmed, Advocate)

Vs.

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

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

O R D E R

In this application received on transfer from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985, the applicant
has challenged Memorandum No.H/P 584/iii/1/7/ORG dated
28.11.1981 (Annexure.E) of the Divisional Railway
Manager, South Central Railway, Hubli (DRM).

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2. After a series of proceedings, the narration of which is not very necessary the DRM by his order No.H/P 524/iii/2/UG/S.C.Rly. dated 29.8.1981 (Annexure-D), fixed the pay of the applicant at Rs.580/- in the time scale of Rs.425-640 w.e.f. 4.6.1981. with which he had no grievance. But the DRM, within another 3 months, i.e., on 28.11.1981, has again refixed the same at Rs.540/- as on 4.6.1981 without issuing him a show cause notice and affording an opportunity to state his case, which is not denied by the respondents and is apparent from the order also.

3. Shri S.Munir Ahmed, Learned Counsel for the applicant, contends that the order made by the DRM on 28.11.1981 which results in serious civil consequences is violative of the principles of natural justice, and is illegal. In support of his contention, Shri Ahmed relies on the ruling of the Supreme Court in STATE OF ORISSA v. BINAPANI DEI (A.I.R.1967 SC p. 1269).

4. Shri M.Sreerangaiah, learned counsel for the respondents, sought to support the order of the DRM.

5. In this application, the applicant had not specifically asserted that before making his order on 28.11.1981, the DRM had not issued him a show cause notice and did not afford him an opportunity to state

his case which is the factual position and apparent from the order also. When once we hold that the DRM had made the order without issuing a show-cause notice and affording an opportunity to the applicant to state his case, it follows from the principles enunciated in BINAPANI'S case, reiterated in all the later cases, the order made by the DRM is violative of the principles of natural justice, illegal and cannot be upheld by us.

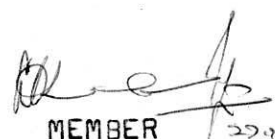
6. Sri Sreerangaiah urges for reserving liberty to the authorities to re-do the matter in conformity with law. ~~But~~ Admittedly the applicant has retired from service on 31.1.1982. We therefore decline liberty to the authorities to re-do the matter.

7. In the light of our above discussion, we quash the order dated 28.11.1981 of the DRM (Annexure-E).

8. Application is allowed with no order as to costs.



VICE-CHAIRMAN



MEMBER

22.12.1986