

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 12 Oct '87

APPLICATION NO

36 /87(F)

W.P.No.

APPLICANT T. S. Sesham Vs

RESPONDENTS Secy, Min. of
Transport, Dept. of Railways
New Delhi and 3 Ors.

To

1. Sri T. S. Sesham,
No. 61, M.R. Colony,
Rammiah Building,
Murgendra Palace,
Vimanapura P.O.,
Bangalore-17.

2. Sri M. S. Anandaram,
No. 128, Cubbonpet Main Road,
Bangalore- 560 002.

3. The Secretary,
Min. of Transport,
Department of Railways,
Rail Bhawan,
New Delhi -110001.

4. The General Manager,
South Central Railway,
Secunderabad (A.P.)

5. The Divisional Railway
Manager,
S.C. Rlys, Personal Branch,
Divisional Office, Hubli.

6. The Senior Divisional
Mechanical Engineer
(Loco), S.C. Railways
Hubli

7. Sri M. Sreerangaiah
Lawrence,
3, S.P. Building,
10th Cross,
Cubbonpet, Blor- 2

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application

on 25 Sep '87.

RECEIVED 7 copies 13/10

Diary No. 1284/1919

Date: 15-10-87

SECTION OFFICER
(JUDICIAL)

Encl: as above.

(Received copy)
T.S. Sesham
12/10/87

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 25TH DAY OF SEPTEMBER, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 36/1987

Shri T.S. Seshan,
S/o T.S. Sivaramakrishnan,
aged about 42 years,
No.61, M.R. Colony,
Ramaiah Building,
Murugendra Palya,
Vimanapura P.O.
Bangalore.17.

.... Applicant

(Shri M.S. Anandaramu, Advocate)

v.

1. Union of India represented
by the Secretary,
Ministry of Transport,
Department of Railways,
"Rail Bhavan"
New Delhi.1.
2. The General Manager,
South Central Railways,
Secunderabad,
Andra Pradesh.
3. The Divisional Railway Manager,
South Central Railways,
Personnel Branch,
Divisional Office,
Hubli.
4. The Senior Divisional
Mechanical Engineer(LOCO)
South Central Railways,
Hubli.

.... Respondents.

(Shri. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
Vice-Chairman made the following:

ORDER

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985
('the Act').

2. Shri T.S. Seshan, the apolicant before us, joined service as a Fireman Apprentice on 7.4.1965, in the Southern Railway and was promoted as Shunter-A from 26.8.1976 and then as Driver-C(Steam) from 3.8.1980, from which date, he was working at the Hubli Division of the South Central Railway (SCR).

3. When the applicant was working at Hubli, the Divisional Mechanical Engineer (Loco), Hubli, ('DME'), and the Disciplinary Authority ('DA'), initiated disciplinary proceedings against him under the Railway Servants (Discipline and Appeal) Rules, 1968 ('Rules') on the following charge:

"It is reported that the said Sri T.S. Seshan while functioning as Dr.'C'/UBL has remained absent from duty from 1.1.1982 to 6.10.82 for 279 days without proper sanction of leave or proper medical authority. Thus he has contravened 3(i)(ii) of Railway Services (Conduct) Rules 1966."

The applicant did not file his defence statement to the charge memo served on him. But, notwithstanding the same, the DA appointed one Shri K.V. Madhavan, Loco Inspector, Hubli, as the Inquiry Officer (IO) under the Rules, to hold a regular inquiry on the said charge and submit his report.



4. After fixing the inquiry on more than one date, the IO finally posted the inquiry to 15.6.1983 with due notice of that date to the applicant, on which day, he was absent. On noticing his absence on that day, the IO recorded the evidence of one Shri K.V. Sharma, Loco Foreman, Hubli a witness cited in the charge memo, and then submitted his report to the DA, expressing that the applicant was guilty of the charge levelled against him.

5. On an examination of the report of the IO and the records, the DA concurring with the report of the IO on 6.7.1983 (Annexure-K) inflicted the penalty of removal from service against the applicant.

6. Against the said order of the DA, the applicant filed an appeal before the Divisional Railway Manager South Central Railway, Hubli (DRM), who on 21.9.1984 rejected the same as barred by time. Aggrieved by the said order of the DRM, the applicant approached this Tribunal in Application No.1414/86 on 21.10.1986, a Division Bench of this Tribunal allowed the same and held that the appeal filed by the applicant before the DRM was in time and directed him to dispose of the appeal on merits. In pursuance of this order, the DRM restored the appeal filed by the applicant to its original file, examined the matters afresh and on 30.12.1986 (Annexure-X) dismissed the same. Hence this application.



7. Shri M.S. Anandaramu, learned Counsel for the applicant, contends, that the IO should not have closed the inquiry on 15.6.1983 but should have adjourned the same on that day, to enable the applicant to appear and defend himself as imperatively required by Rule 9(12) of the Rules.

8. Shri M. Sreerangaiah, learned Standing Counsel for the respondents contends, that the IO was justified in concluding the inquiry and the same did not contravene the Rules and the principles of natural justice.

9. The fact, that the IO posted the inquiry for recording evidence on 15.6.1983 and the applicant who had due notice of the same was absent on that day is not in dispute. In these circumstances, the IO recorded the evidence of Shri Sharma, cited as a witness in the charge memo, concluded the inquiry and then submitted his report to the DA.

10. When the applicant had been duly notified of the hearing date and he was absent when the case was called, it was open to the IO to proceed with the inquiry, conclude the same and then submit his report to the DA. Rule 9(12) of the Rules did not prohibit the IO from proceeding with the inquiry on 15.6.1983 and completing the same on that day at all.



11. But the applicant has urged that he was unwell on 15.6.1983 and therefore he had sent a telegram and a letter to the IO, requesting him to postpone the inquiry on that day and atleast on those facts, the IO should have postponed the inquiry scheduled on 15.6.1983.

12. In the records of the IO, the telegram stated to have been sent by the applicant on 15.6.1983 is not forthcoming. We also find that the copy of the letter dated 14.6.1983 had been actually received by the IO only on the next day and not on 15.6.1983. Both these facts negative the claim of the applicant that the IO who was not aware of his requests, if any should have postponed the inquiry on that day.

13. Shri Anandaramu produced a copy of the telegram receipt, issued by the post office evidencing the issue of a telegram by the applicant to establish his case for adjournment.

14. From the copy of the telegram maintained by the applicant, it appears that the same was not addressed to the IO but was addressed to the Loco-Superintendent. If the applicant had not sent a telegram to the IO and that Officer had ^{not} received any telegram on that day, then the IO was under no obligation to postpone the inquiry.

15. We have earlier noticed, that the letter requesting for adjournment had been received by the IO after he had concluded the inquiry.



16. On the facts noticed by us, it is clear, that the applicant cannot derive any support either from the telegram or the letter he had addressed, requesting for an adjournment of the inquiry scheduled on 15.6.1983.

17. On a critical examination of the evidence placed before him, the IO had concluded, that the applicant, who had been charged for unauthorised absence from duty for a period of 279 days viz., from 1.1.1982 to 6.10.1982, was guilty of that charge. The findings of the IO with, which the DA and the Appellate Authority (AA) have concurred, are based on evidence. We are also of the view that those findings are not perverse and ~~could not~~ ^{cannot} be characterised as no reasonable person would have ever reached them. If that is so, then we cannot really take exception to their findings at all. From this, it follows, that the finding of guilt recorded by the authorities against the applicant, have to be upheld by us.

18. Shri Anandaramu contends, that even then, this is a fit case in which this Tribunal should interfere with the penalty imposed and modify the same to any one of the minor penalties under the Rules and direct reinstatement of the applicant to service.

19. Sri Sreerangaiah opposes any interference on the penalty imposed by the authorities.



20. We have earlier upheld the finding of the authorities that the applicant was unauthorisedly absent for a period of 279 days from 1.1.1982 to 6.10.1982. In order to examine whether this was the very first occasion or not and the punishment calls for any modification or not, we called for the Service Register (SR) of the applicant and perused the same.

21. We find that the applicant has been almost habitually absenting himself from duty unauthorisedly. On an earlier occasion, the applicant was absent from duty from 21.11.1980 to 15.7.1981 but for that he had been punished somewhat leniently. Even this was not the very first occasion on which the applicant was absent unauthorisedly. In the course of his duties in one or the other capacity, the applicant had absented himself from duty on a number of occasions. We need hardly say that unauthorised absence in an essential service like the Railways needs to be deprecated.

22. On an in-depth examination of all fact-situations, from the very commencement of the career of the applicant, we are of the view, that if we were to accede to the submission of Shri Anandaramu, it would only help breed rank indiscipline in public services, that too in an essential service like the Indian Railways. We will therefore, not be justified in interfering with the punishment imposed by the authorities both on principle and



authority. We are of the view that the ruling of the Supreme Court in JASWANT SINGH v. PEPSU ROADWAYS TRANSPORT CORPORATION & ANR. in 1984(1)LLJ 33 relied upon by Counsel for the applicant is essentially a decision on the facts of that case and does not lay down an absolute and universal proposition compelling Tribunals to interfere with every case of punishment without reference to the peculiar facts and circumstances of that case. For all these reasons, we are of the view that this is not a fit case in which the interference of this Tribunal is called for, on the quantum of punishment imposed against the applicant also.

23. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
Vice-Chairman
20/9/1981

Sd/-
Member (A)

True Copy

Kms/Mrv.

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE



CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

Dated: 13-10-87

To

1. Shri. Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Shri. R. Venkatesh Prabhu, Member,
Editorial Committee,
Administrative Tribunal Reporter,
67- Lower Palace Orchards,
Bangalore- 560 003.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. ~~The Editor, Administrative Tribunal Law Times,~~
Delhi Law Times Office,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007. (Rep. by Miss. Alka Kulkarni, Reporter, Bangalore)
5. M/s. All India Reporter,
Congressnagar,
Nagpur.
6. Services Law Reporter,
108, Sector 27-A,
Chandigarh- 160 019.

Sir,

I am directed to forward herewith a copy of the under
mentioned order passed by a Bench of this Tribunal comprising of

Hon'ble Mr. K.S. Pinnaswamy, Vice-Chairman/
Member (J) and Hon'ble Mr. _____ Member (A)

with a request for publication of the order in the Journals.

Order dated 25-9-87 passed in A.Nos 36/87 VS 39/87

RECEIVED

Diary No. 1309/12/87

In Date: 15-10-87

Yours faithfully,

(B.V. VENKATA REDDY)
DEPUTY REGISTRAR (J).

File No. 36/87

.. Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench,
Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book
Society Building, D.P.I. Compounds, Nungambakkam, Madras- 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex,
234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD),
First Floor, Near Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No.013,
Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103,
Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road,
Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil
Towers, 5th and 6th Floor, Opp. Maharaja College. M.G. Road,
Ernakulam, Cochin- 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex,
15, Civil Lines, Jabalpur(MP).
10. The Registrar, Central Administrative Tribunal, 88-A, B.M. Enterprises,
Shri Krishna Nagar, Patna- 1.
11. The Registrar, Central Administrative Tribunal, C/o. Rajasthan High
Court, Jodhpur(Rajasthan)
12. The Registrar, Central Administrative Tribunal, New Insurance Building
Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near
Sardar Patel Colony, Umanapura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolanundai, Cuttack-753001.

Copy with enclosures also to:

1. Court Officer(Court I)
2. Court Officer (Court II)

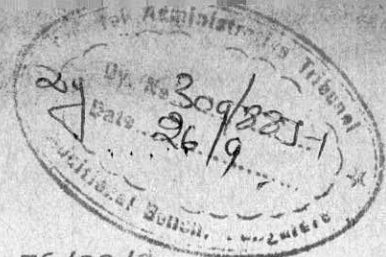
sa/-
(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).

Circulate-

Re 209

*R 26/9
Smt R.K.*

81 no 96 (A)



D. No. 3976/88/Sec- IV.A
SUPREME COURT OF INDIA
NEW DELHI

Dated 20th September, 1988

From:

The Additional Registrar,
Supreme Court of India,
New Delhi

To

The Registrar,
Central Administrative Tribunal
B.D.A. Commercial Complex,
Indiranagar, Bangalore-560 038

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 9513 OF 1988

(Petition under Article 136 of the Constitution of India, for
Special Leave to Appeal to the Supreme Court from the judgment
& Order dated 25.9.87 of the High Court of
Central Administrative Tribunal, Bangalore in Application

No. 36/1987

Shri T.S.Seshan

.....Petitioner .

Union of India & Ors.

vs

.....Respondents.

Sir,

I am to inform you that the Petition above-mentioned for
Special Leave to Appeal to this Court was filed on behalf of
the Petitioner above-named from the judgment and Order of the
Central Administrative Tribunal, Bangalore.

High Court noted above and that the same was/were dismissed/
disposed of by this Court on the 19th day of September,

1988.

Yours faithfully,

[Signature]
for ADDL. REGISTRAR.

AS/

ns/14.9.1988/iva*