

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 24TH DAY OF SEPTEMBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman

And

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 654 OF 1987.

M. Shabbir Hussain,
S/o M. Abdul Khader, Major,
Railway Servant, R/o Miraj,
S.C. Railway, CPWI's office, Miraj. .. Applicant.

(By Sri G.A. Nadgir, Advocate)

VS

1. Divisional Railway Manager,
South Central Railway,
Hubli.
 2. Divisional Engineer (North),
South Central Railway,
Hubli.
 3. Divisional Personnel Officer,
South Central Railway,
Hubli
 4. Assistant Engineer,
South Central Railway,
Belgaum.
 5. Chief Permanent Way Inspector,
South Central Railway, Miraj. .. Respondents.
- (By Sri K.V. Lakshmanachar, Advocate).

--

Hand clear copies of order in place of original
This application coming on for hearing this day,
Vice-Chairman made the following:

ORDER

In this application made under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has challenged
order No.H/W 571/1/36/DEN(N)/W8 dated 21-7-1987 (Annexure-A)



of the Divisional Engineer (North), South Central Railway, Hubli ('DE').

2. On 4.9.1982 the applicant was appointed as a Kalasi/- casual labourer in the office of the Permanent Way Inspector, South Central Railway, Miraj ('PWI') on the basis of an alleged earlier service rendered by him in the office of the PWI(CTR), Nandyal.

3. On 10.7.1987, the DE issued a show cause notice to the applicant proposing to terminate his service on the ground that the basis or the certificate on which he had been appointed in the office of PWI was a fake one. In response to the same, the applicant filed his representation or reply. On an examination of the show cause notice, the reply and all the records, the DE holding that the certificate or the document on the basis of which the applicant had secured an appointment was a 'bogus casual labourer certificate card', had terminated his services. Hence, this application.

4. The applicant has urged more than one ground, which will be noticed and dealt by us in due course. In their reply, the respondents have supported the impugned order and have produced the records of the case.

5. Sri G.A.Nadgir, learned counsel for the applicant, contends that the termination made by the DE without holding a regular inquiry and providing a full opportunity to the applicant to

...3/-



establish his case was illegal. In support of his contention, Sri Nadgir strongly relies on the ruling rendered by us in SHIVAPPA SANGAPPA BARKAR v. THE DIRECTOR OF POSTAL SERVICES, BANGALORE AND ANOTHER (AIR 1987 (2) CAT 273).

6. Sri K.V. Lakshmanachar, learned counsel for the respondents contends that in terminating the services of the applicant, the authority had complied with the requirements of the principles of natural justice and there was no necessity to hold a regular inquiry as urged by the applicant.

7. We have earlier noticed that before terminating the services of the applicant, the DE had issued a show cause notice affording a reasonable time to the applicant to state his case in opposition to the same and that in opposition to the same, the applicant also filed his reply or representation stating his own case before the authority. On a consideration of the grounds stated in the show cause notice, reply filed by the applicant and the documents, the DE had found that the certificate which was the basis on which the applicant was appointed to the post of Kalasi/casual labourer was a bogus one. On that view, the authority had concluded that the applicant who would not have secured an appointment but for that bogus certificate, was liable to be terminated from the post he was appointed. In terminating the services of the applicant, the authority had complied with the requirements of principles of natural justice, the contents of which have been explained by us in Shivappa Sangappa Barkar's case.



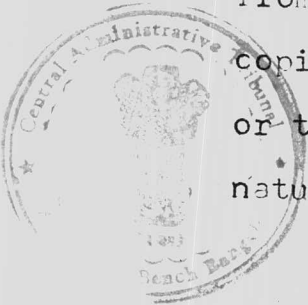
8. In Shivappa Sangappa Barkar's case, this Tribunal had not laid down that a regular and a detailed inquiry should be held in each and every case as urged by Sri Nadgir.

9. In the present case, the authority had not terminated the services of the applicant on the ground that he had committed a misconduct or he was not punishing the applicant for any misconduct. If that is so, then the requirements of the Rules regulating detailed inquiries against the railway servants are not required to be observed. What had been done by the authority was in substantial compliance of the requirements of principles of natural justice and cannot be taken exception to by us either on the basis of the principles enunciated in Shivappa Sangappa Barkar's case or any other rulings of the Supreme Court.

10. On the foregoing discussion, we hold that there is no merit in this contention of Sri Nadgir and we reject the same.

11. Sri Nadgir next contends that the material documents on the basis of which the authority had found against the applicant was not furnished to him and the same was violative of the principles of natural justice.

12. Sri Lakshmanachar, contends that the show cause notice issued by the DE had set out all the material facts noticed from all the documents and the applicant, who did not seek for copies of them or for their inspection before filing his reply or thereafter cannot complain of violation of the principles of natural justice.



22. We have carefully examined every one of the materials on the basis of which the authority found against the applicant. We are of the view that the finding of the authority that the card on the basis of which the applicant was appointed was a bogus card and was not a genuine card is an absolutely correct one. We have no doubt that if the authorities were aware of this position, then they would not have appointed the applicant to the post he was earlier appointed. If that is so, then also we should decline to interfere with the order of the DE.

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

Sd/-
MEMBER(A).

- True Copy -


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

13. In his show cause notice, the DE had set out all the material facts on which he proposed to terminate the services of the applicant. Before filing his reply as such to the same, the applicant did not ask the DE to supply the documents or permit to inspect the documents. This was also the position till the DE made his orders against the applicant. On these facts it is difficult to uphold this contention of Sri Nadgir.

14. Even otherwise, we are of the view that the failure of the DE to supply the documents or permit the applicant to inspect the documents, had not occasioned a failure of justice to the applicant at all.

15. On the foregoing discussion, we hold that there is no merit in this contention of Sri Nadgir and we reject the same.

16. Sri Nadgir next contends that it was for the DE to satisfactorily or conclusively prove that the certificate on the basis of which the applicant had secured his appointment as a Kalasi/casual labourer was a bogus one and that burden had not been discharged by him.

17. Sri Lakshmanachar contends that in the simple inquiry held, there was no question of the DE proving that the certificate obtained by the applicant was a bogus one.

18. In a proceeding relating to the termination on the ground that a fake certificate was the basis for appointment, the question of the authority proving that that certificate was a fake or bogus one as if it was criminal trial, does not arise. After all the applicant was not facing a criminal charge. All that the authority had to find out was whether the certificate



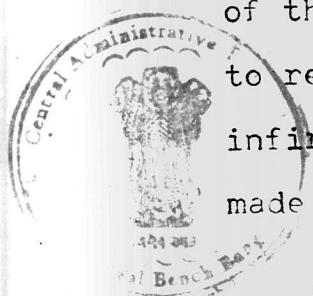
on the basis of which the appointment was made was a bogus one or not. In the nature of the proceedings, it was undoubtedly open to the authority to examine the very certificate and all other reports obtained by him and hold that the certificate was a bogus one. We see no infirmity in the procedure adopted by the DE or on the conclusions reached by him. We see no merits in this contention of Sri Nadgir and we reject the same.

19. Sri Nadgir lastly contends that on the very terms of the instructions issued by the Zonal office (Annexure-II), it was imperative for the DE to have referred the proceedings to the Vigilance Department for a full and complete investigation on the nature of the certificate and then decide the matter in conformity with that investigation.

20. Sri Lakshmanachar contends that the circular did not and does not compel the DE to refer each and every case to the Vigilance Department.

21. After all circular instructions issued by a superior or the Head of Office are only meant for the guidance of his subordinates. The circular instructions cannot be read as imperative laws made by a law making authority requiring a meticulous observance in all its details. Whether the facts and circumstances of the case justified a reference to the Vigilance organisation or not was for the authority to examine and decide. On an examination of the facts and circumstances of the case, the authority had found that it was unnecessary to refer the matter to the Vigilance department. We see no infirmity whatsoever in the procedure adopted or the order made by the authority.

...7/-



D.No. 284/88/Sud A
SUPREME COURT OF INDIA
NEW DELHI.

Dated 14th July, 1988.

From: The Additional Registrar,
Supreme Court of India.

To

~~The Registrar,~~ Central Administrative Tribunal,
Bangalore Bench, Bangalore - 560038.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 502 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 24-9-1987 of the High Court of

Central Administrative Tribunal, Bangalore in
Application No. 654 of 1987 (CF)

Shri M. Shabbir Hussain

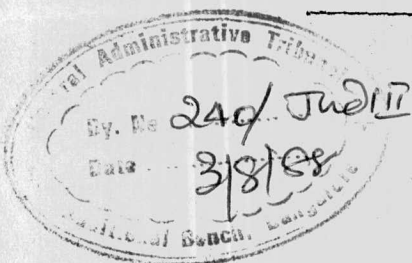
....Petitioner

The Divisional Railway Manager
South Central Railway D. Am.

...Respondent

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
of the High Court noted above and that the same was/were
dismissed by this Court on the 15th day of April,
1988.



Yours faithfully,

[Signature]
for Addl. Registrar.

Received along with
SLP Nos. 4343/88
(A. No. 610/87).

Sec- IV-A.

All communications should
be addressed to the Registrar,
Supreme Court, by designation,
NOT by name.
Telegraphic address:-
"SUPREMECO"

D. No. 284/88/Sec. IV-A

SUPREME COURT INDIA

FROM

H.S. Kaickar, B.A. L.L.B;
Assistant Registrar.

To

✓ The Registrar,
Central Administrative Tribunal,
Bangalore Bench,
Commercial Complex, (BDA)
Indiranagar, Bangalore-560 038.

Dated New Delhi, the 18th January, 1990

CIVIL APPEAL NO. 74 OF 1990

M. Shabbir Hussain

... Appellant

.Versus-

The Divisional Railway Manager,
South Central Railway, Hubli,
& Ors.

... Respondents

Sir,

In continuation of this Registry's letter of even number dated the 14th July, 1988, I am directed to forward herewith for your information and necessary action a certified copy of the formal order alongwith certified copy of the order dated 9.1.90 in this appeal and order dated 19.4.88 in Civil Appeal No. 1518 of 1988.

Please acknowledge receipt.

Yours faithfully

[Signature]
ASSISTANT REGISTRAR

76-J.H.
31/1/90.

arun/-

IN THE SUPREME COURT OF INDIA

CIVIL/~~CRIMINAL~~/APPELLATE JURISDICTION

CIVIL APPEAL NO.74 OF 1990

ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.502 OF 1988

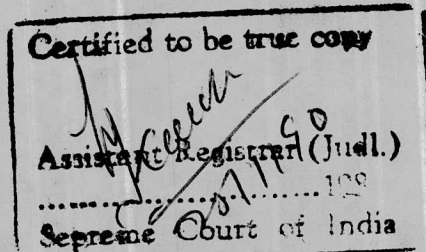
(Aforesaid Petition was restored and Order dated 15.4.88 of this Court recalled in Review Petition No.686 of 1988 and Special Leave granted by this Court's Order dated the 9th January, 1990, against the Order dated the 24th September, 1987, of the Central Administrative Tribunal, Bangalore Bench in Application No.654 of 1987(F))

M. Shabbir Hussain s/o
M. Abdul Kadar, r/o 6224
Bhudawarpet, Miraj, Sanghi,
(Distt) Maharashtra.

... Appellant

-Versus-

1. The Divisional Railway Manager,
South Central Railway Hubli.
2. The Divisional Engineer (North)
South Central Railway, Hubli.
3. The Divisional Personnel Officer,
South Central Railway Hubli.
4. The Assistant Engineer,
South Central Railways Belgaum.
5. The Chief Permanent way Inspector,
South Central Railway Miraj.



... Respondents

Dated the 9th January, 1990

CORAM:

HON'BLE MR. JUSTICE K.N.SINGH
HON'BLE MR. JUSTICE M.H.KANIA

For the Appellant : Mr. K.R. Pillai, Advocate (not present)

For the Respondents: Mr. Santosh Hegde, Additional Solicitor General
for India.

(M/s. Girish Chandra and Sushma Suri, Advocates
with him.)

Contd....2/-

The Civil Appeal above-mentioned being called on for hearing before this Court on the 9th day of January, 1990, UPON hearing Counsel for the respondents herein AND UPON perusing the relevant documents THIS COURT in view of the Order dated the 19th April, 1988, in Civil Appeal No.1518 of 1988, DOTH in allowing the appeal ORDER that the Order dated the 24th September, 1987, of the Central Administrative Tribunal, Bangalore Bench, in Application No.654 of 1987 (F), ^{1/22} be and is hereby set aside and in place thereof an Order allowing the said application No.654 of 1987 and vacating the Order No.H/W 571/I/36/DEN^{1/22}/W6 dated 10.7.87 of the Divisional Engineer North S.C.Railway Hubli, terminating the services of the Appellant herein with effect from the 31st July, 1987, ^{in and} with the directing^W that the Appellant herein shall be deemed to be continuing^{in W} the employment and he would be entitled to his wages from July 1987 till date be and is hereby Substituted;

AND THIS COURT DOTH FURTHER ORDER that there shall be no Order for costs of the said appeal in this Court.

AND THIS COURT DOTH LASTLY ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Sabyasachi Mukharji, Chief Justice of India, at the Supreme Court, New Delhi, this the 9th day of January, 1990.

Sell

(V.P. SINGHAL)

JOINT REGISTRAR

SUPREME COURT

CIVIL/~~CRIMINAL~~/APPELLATE JURISDICTION

CIVIL APPEAL NO.74 OF 1990

M. Shabbir Hussain

... Appellant

-Versus-

The Divisional Railway Manager,
South Central Railway, Hubli
& Ors.

... Respondents

Versus

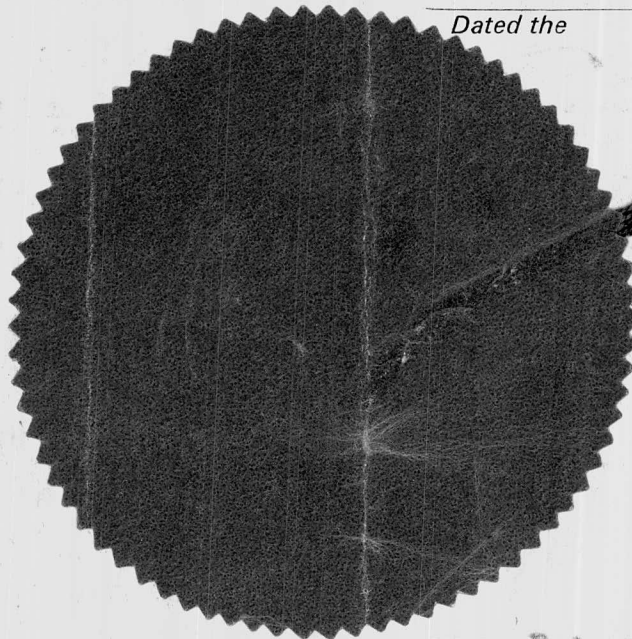
Appellant
Petitioner

Respondent

DECREE DISPOSING OF THE APPEAL
WITH NO ORDER AS TO COSTS

Dated this the 9th day of January, 1990.

Dated the _____ day of _____ 198

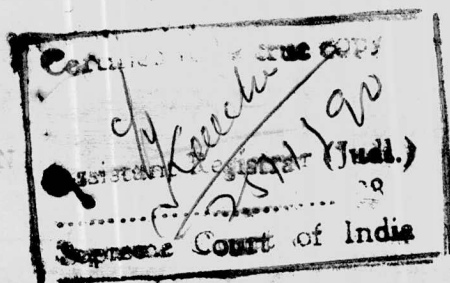


SHRI Padmanabha Mahale,
Advocate-on-Record for the Appellant

SHRI Mrs. Sushma Suri,
Advocate-on-Record for the Respondents

SHRI
Advocate-on-Record for

Engrossed by arun/-
Examined by
Compared with
No. of folios



227637
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 686 OF 1988.

IN

SPECIAL LEAVE PETITION (CIVIL) NO. 502 OF 1988.

M.S. Hussain

...Petitioner

Vs.

The Divisional Railway Manager, South
Central Railway & Anr.

...Respondents

ORDER

Heard learned counsel for the parties. It has been brought to our notice that the petitioner was continuing in service inspite of the impugned order and in a similar petition another Bench of this Court has allowed the petition in C.A. No. 1518 of 1988 decided on 19.4.1988. This fact was not brought to our notice on the date we dismissed the petition. In this view we allow the Review Petition and recall our order dated 15.4.1988.

Leave granted.

The questions involved in the present case are the same as were involved in C.A. 1518 of 1988. Since that appeal has been allowed by another Bench of this Court, we think it proper to allow the present appeal, set aside the order of the Tribunal and also the order of termination. We further issue directions in terms of the Court's order issued in C.A.1518 of 1988. No order as to costs.

K.N. Singh
.....J.
(K.N. Singh)

New Delhi,
January 9, 1990.

M.H. Kania
.....J.
(M.H. Kania)

Certified to be true copy
As per
Seal
of India
27.4.88
(Judl.)

227638

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1578 OF 1988

(Arising out of SLP (C) No.1284 of 1987)

9

Karim

... Appellant.

versus

Divisional Railway Manager & Ors.

... Respondents.

ORDER

Special leave granted.

Heard learned counsel for the appellant and learned Additional Solicitor General for the respondent . In the peculiar facts and circumstances of the case, we are of the view that the notice of termination given on 21st July, 1987 should not be enforced. In fact in paragraph 20 of the counter affidavit the stand taken by the respondent is that the appellant is still continuing in service inspite of that notice. We would accordingly set aside the decision of the Tribunal and vacate the order of termination dated 21st July, 1987, and as a special case direct that the appellant shall be deemed to be continuing in employment. He would be entitled to his wages from July, 1987 till date . The appeal is accordingly disposed of. No costs.

.....J.
(Ranganath Misra)

.....J.
(Murari Mohan Dutt)

New Delhi;
April 19, 1988.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indira Nagar, Bangalore-560 038.

File of A.No. 654/87 (F)

Dated the

To

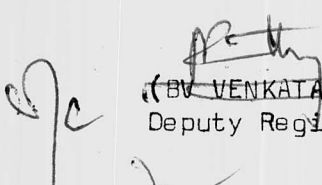
1. The Registrar,
Central Administrative Tribunal,
Principal Bench, Faridkot House,
C opernicus Marg, NEW DELHI-110 001.
2. The Registrar,
Central Administrative Tribunal,
Calcutta Bench,
CGO Complex, 234/4-AJC Bose Road,
CALCUTTA-800 020.
3. The Registrar,
Central Administrative Tribunal,
Bombay Bench, CGO Complex,
1st Floor, Near Kankon Bhavan,
NEW BOMBAY-400 614.
4. The Registrar,
Central Administrative Tribunal,
Allahabad Bench, 23-A, Thorn Hill Road,
ALLHABAD-1.
5. The Registrar,
Central Administrative Tribunal,
C handigarh Bench, SCO No.102-103,
Sector-34-A,
CCHANDIGARH.
6. The Registrar,
Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road,
Off. Shillong Road,
GUWAHATI-781 005.
7. The Registrar,
Central Administrative Tribunal,
Ernakulam Bench,
Kandamkulathy Towers, 5th Floor,
M.G.Road, ERNAKULAM.
8. The Registrar,
Central Administrative Tribunal,
Patna Bench, 88-A, Shrikrishna Nagar,
PATNA- 800 001.

9. The Registrar,
Central Administrative Tribunal,
Jabalpur Bench, Carava Complex,
15-Civil Lines, JABALPUR(M.P.)
10. The Registrar,
Central Administrative Tribunal
Madras Bench, EVK Sampath Bldgs.,
5th Floor, DPI Compound, College Road,
MADRAS-600 006.
11. The Registrar,
Central Administrative Tribunal,
Jodhpur Bench,
C/o Rajasthan High Court,
JODHPUR, Rajasthan.
12. The Registrar,
Central Administrative Tribunal,
Hyderabad Bench,
New Insurance Bldg., Complex, 6th Floor,
Tilak Road, HYDERABAD.
13. The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench, Navrang pura,
Near Sardar Patel Colony,
Usmanpura, AHMEDABAD.
14. The Registrar,
Central Administrative Tribunal,
Cuttack Bench, Dolmandi,
CUTTACK-753 001.

Sir,

With reference to Principal Bench's circular No.14/1/89-JA/2719, dated 20-3-89, I am forwarding herewith a copy of the particulars of the orders passed by the Supreme Court of India in SLP/CA/CMP, preferred against the cases on the file of this Bench.

Yours faithfully,


(BV VENKATA REDDY)
Deputy Registrar(J).

Copy to:-

1. P.S. to Hon.ble & Members,
2. File No.13/89-J-II.
3. Court Officers.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

1. The OA/TA/CCP No. of the Case appealed: A.No. 654/87 (F)
2. Name of Parties:
 - (a) Applicant(s)/Petitioner(s) : M.Shabbir Hussain
 - (b) Respondent(s) : The Divisional Rly. Manager,
S.C.Rly, Hubli & ers
3. Nature of case in brief : Termination
4. Name of the Bench which passed the impugned orders : BANGALORE BENCH
5. Whether the case was:-
 - (a) Allowed or disallowed : Dis allowed
 - (b) Date of Order : 24.9.87
 - (c) Bench comprising of : Honble Justice Sh.K.S.Puttaswamy
Vice Chairman,
Honble Sh. L.H.A.Rago M(A)
6. SLP/Civil Appeal No, : (i) SLP No 502 / 88
(ii) CA No 74/90 in SLP No 502/88
Review Petition No 686/88
7. Parties name before the Hon'ble Supreme Court:-
 - (a) Applicant(s)/Petitioner(s) : M.Shabbir Hussain
 - (b) Respondents : The Divisional Rly. Manager,
SC Rly, Hubli & ers
 - (c) Date of Interim Order : -
 - (d) Nature of Order in brief (may contain the order if not too long) : By an order dated 9.1.90 in Review Petition the Supreme Court restored the petition. Spl. Leave granted. Earlier order modified. Now appeal is allowed.
(Copy enclosed)
 - (e) Whether operation of the order of the Tribunal stayed/restricted or modified. : CAT order set aside.

All communications should
be addressed to the Registrar,
Supreme Court, by designation,
NOT by name.
Telegraphic address:-
"SUPREMECO"

500
Sup. L
D. No. 284/88/Sec. IV-A

**SUPREME COURT
INDIA**

FROM

H.S. Kaickar, B.A. L.L.B;
Assistant Registrar.

TO

✓ The Registrar,
Central Administrative Tribunal,
Bangalore Bench,
Commercial Complex, (BDA)
Indiranagar, Bangalore-560 038.

Dated New Delhi, the 18th January, 19 90
24

CIVIL APPEAL NO. 74 OF 1990

M. Shabbir Hussain

... Appellant

.Versus-

The Divisional Railway Manager,
South Central Railway, Hubli,
& Ors.

... Respondents

Sir,

In continuation of this Registry's letter of even number dated the 14th July, 1988, I am directed to forward herewith for your information and necessary action a certified copy of the formal order alongwith certified copy of the order dated 9.1.90 in this appeal and order dated 19.4.88 in Civil Appeal No. 1518 of 1988.

Please acknowledge receipt.

Yours faithfully

H. Kaickar
ASSISTANT REGISTRAR

76-J.H.
31/1/90.

IN THE SUPREME COURT OF INDIA

CIVIL/~~CRIMINAL~~/APPELLATE JURISDICTION

CIVIL APPEAL NO.74 OF 1990

ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.502 OF 1988

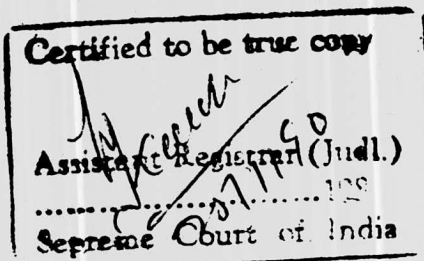
(Aforesaid Petition was restored and Order dated 15.4.88 of this Court recalled in Review Petition No.686 of 1988 and Special Leave granted by this Court's Order dated the 9th January, 1990, against the Order dated the 24th September, 1987, of the Central Administrative Tribunal, Bangalore Bench in Application No.654 of 1987(F))

M. Shabbir Hussain s/o
M. Abdul Kadar, r/o 6224
Bhudawarpet, Miraj, Sanghi,
(Distt) Maharashtra.

... Appellant

-Versus-

1. The Divisional Railway Manager,
South Central Railway Hubli.
2. The Divisional Engineer (North)
South Central Railway, Hubli.
3. The Divisional Personnel Officer,
South Central Railway Hubli.
4. The Assistant Engineer,
South Central Railways Belgaum.
5. The Chief Permanent way Inspector,
South Central Railway Miraj.



... Respondents

Dated the 9th January, 1990

CORAM:

HON'BLE MR. JUSTICE K.N.SINGH
HON'BLE MR. JUSTICE M.H.KANIA

For the Appellant : Mr. K.R.R.Pillai, Advocate (not present)

For the Respondents: Mr.Santosh Hegde, Additional Solicitor General
for India.

(M/s. Girish Chandra and Sushma Suri, Advocates
with him.)

Contd....2/-

The Civil Appeal above-mentioned being called on for hearing before this Court on the 9th day of January, 1990, UPON hearing Counsel for the respondents herein AND UPON perusing the relevant documents THIS COURT in view of the Order dated the 19th April, 1988, in Civil Appeal No.1518 of 1988, DOTH in allowing the appeal ORDER that the Order dated the 24th September, 1987, of the Central Administrative Tribunal, Bangalore Bench, in Application No.654 of 1987 (F), ^{1/82} be and is hereby set aside and in place thereof an Order allowing the said application No.654 of 1987 and vacating the Order No.H/W 571/I/36/DEN ^{1/82} ~~N/W6~~ dated 10.7.87 of the Divisional Engineer North S.C.Railway Hubli, terminating the services of the Appellant herein with effect from the 31st July, 1987, ^{in and} ~~with~~ the direction ⁱⁿ ~~that~~ that the Appellant herein shall be deemed to be continuing ⁱⁿ ~~the~~ employment and he would be entitled to his wages from July 1987 till date be and is hereby Substituted;

AND THIS COURT DOTH FURTHER ORDER that there shall be no Order for costs of the said appeal in this Court.

AND THIS COURT DOTH LASTLY ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Sabyasachi Mukharji, Chief Justice of India, at the Supreme Court, New Delhi, this the 9th day of January, 1990.

Sell
(V.P. SINGHAL)
JOINT REGISTRAR

SUPREME COURT

CIVIL/~~CRIMINAL~~/APPELLATE JURISDICTION

CIVIL APPEAL NO. 74 OF 1990

M. Shabbir Hussain

... Appellant

-Versus-

The Divisional Railway Manager,
South Central Railway, Hubli
& Ore.

... Respondents

Appellant
Petitioner

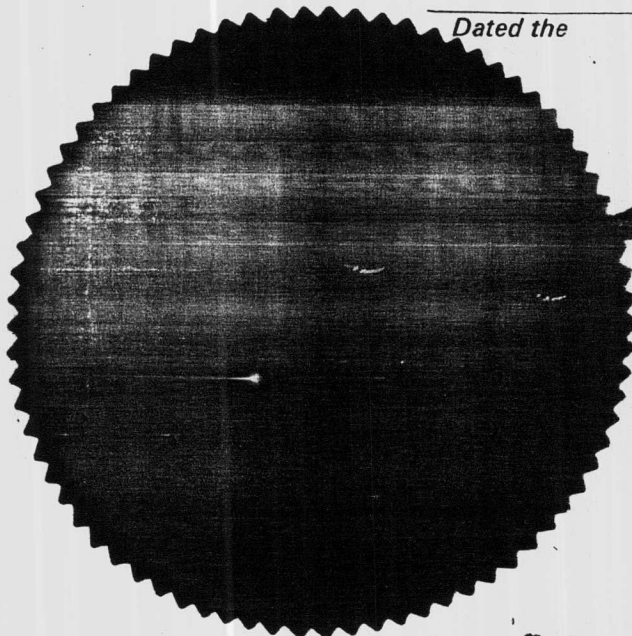
Versus

Respondent

DECREE DISPOSING OF THE APPEAL
WITH NO ORDER AS TO COSTS

Dated this the 9th day of January, 1990.

Dated the _____ day of _____ 198



MS
25/1/90
SEAL

SHRI **Padmanabha Mahale,**
Advocate-on-Record for **the Appellant**

~~SHRI~~ **Mrs. Sushma Suri,**
Advocate-on-Record for **the Respondents**

Engrossed by **erun/-**
Examined by
Compared with
No. of folios

SHRI
Advocate-on-Record for

227637
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 686 OF 1988.

IN
SPECIAL LEAVE PETITION (CIVIL) NO. 502 of 1988.

M.S. Hussain

...Petitioner

Vs.

The Divisional Railway Manager, South
Central Railway & Anr.

...Respondents

ORDER

Heard learned counsel for the parties. It has been brought to our notice that the petitioner was continuing in service inspite of the impugned order and in a similar petition another Bench of this Court has allowed the petition in C.A. No. 1518 of 1988 decided on 19.4.1988. This fact was not brought to our notice on the date we dismissed the petition. In this view we allow the Review Petition and recall our order dated 15.4.1988.

Leave granted.

The questions involved in the present case are the same as were involved in C.A. 1518 of 1988. Since that appeal has been allowed by another Bench of this Court, we think it proper to allow the present appeal, set aside the order of the Tribunal and also the order of termination. We further issue directions in terms of the Court's order issued in C.A.1518 of 1988. No order as to costs.

K.N. Singh
.....J.
(K.N. Singh)

New Delhi,
January 9, 1990.

M.H. Kania
.....J.
(M.H. Kania)

22.05.88
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1578 OF 1983

(Rising out of SLP (C) No. 1284 of 1987)

9

Karim

... Appellant.

versus

Divisional Railway Manager & Ors.

... Respondents.

ORDER

Special leave granted.

Heard learned counsel for the appellant and learned Additional Solicitor General for the respondent. In the peculiar facts and circumstances of the case, we are of the view that the notice of termination given on 21st July, 1987 should not be enforced. In fact in paragraph 20 of the counter affidavit the stand taken by the respondent is that the appellant is still continuing in service inspite of that notice. We would accordingly set aside the decision of the Tribunal and vacate the order of termination dated 21st July, 1987, and as a special case direct that the appellant shall be deemed to be continuing in employment. He would be entitled to his wages from July, 1987 till date. The appeal is accordingly disposed of. No costs.

Ranganath Misra
.....J
(Ranganath Misra)

Murari Mohan Dutt
.....J
(Murari Mohan Dutt)

New Delhi;
April 19, 1988.