

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

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

Dated: 28-10-87

APPLICATION NO 726 /87 (F)

W.P.No. \_\_\_\_\_

APPLICANT

Vs

RESPONDENTS

Shri S. Harry

To

The Divisional Mechanical Engineer,  
Southern Railway, Bangalore & 2 Ors

1. Shri S. Harry  
No. 118/119, Nehru Puram  
Bradshaw Street  
Bangalore - 560 010

2. Shri G. Shantappa  
Advocate  
1849 2/A, 1st Floor, 6'A' Main,  
2nd Stage, Rajajinagar  
Bangalore - 560 010

3. The Divisional Mechanical Engineer  
Southern Railway  
(Divisional Offices, near Railway Station)  
Bangalore City

4. The Divisional Railway Manager  
Southern Railway  
(Divisional Offices, Railway Station)  
Bangalore

5. The Chief Personnel Officer  
Southern Railway Headquarters  
Park Town  
Madras - 3

6. Shri M. Sreerangaiah  
Railway Advocate  
3, S.P. Buildings, 10th Cross  
Cubbonpet Main Road  
Bangalore - 560 002

Received 2 Copies  
for Sl. No. 1 & 2  
G. Shantappa  
30/10/87

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/8xxx/

~~xxxxxx~~ passed by this Tribunal in the above said application  
on 9-10-87.

RECEIVED 6 Copies 28/10/87

Diary No. 1358/C2/87

Issued Date: 30.10.87

Encl: as above.

B. V. Venkatesh Reddy  
DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 9TH DAY OF OCTOBER, 1987

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

APPLICATION NO. 726/87

Sri. S. Harry,  
S/o late D. Susainathan,  
aged 54 years,  
Dirver, Southern Railway,  
R/a No.118/119,  
Nehru Puram,  
Bradshaw Street,  
Bangalore-1.

.... Applicant

(Shri G. Shantappa, Advocate)

v.

1. Divisional Mechanical Engineer,  
Southern Railway,  
(Divisional Offices, near  
Railway Station),  
Bangalore.
2. The Divisional Railway Manager,  
(Appellate Authority),  
Southern Railway,  
(Divisional Offices,  
Railway Station),  
Bangalore.
3. The Chief Personnel Officer,  
Southern Railway,  
Headquarters Office,  
Personnel Branch,  
Madras.

.... Respondents.

( Sri M. Sreerangaiah, Advocate)

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

ORDERS ON I.A. NO. 1

In this I.A. made under Section 21(3) of the Administrative  
Tribunals Act, 1935 ('the Act'), the applicant has sought for  
condoning the delay of 201 days in filing the application.



2. In I.A. No.1, the applicant has asserted that after the final order was received by him, he had no means to prosecute the proceedings and therefore, he approached the Karnataka State Legal Aid Board ('Board') to extend him legal aid to make the application before this Tribunal which took considerable time to examine and sanction his request and then permitted Shri G. Shantappa, Advocate to make this application and it is in these circumstances there was delay of 201 days.

3. I.A. No.1 is opposed by the respondents.

4. Shri G. Shantappa learned Counsel for the applicant urges that all the facts and circumstances stated in I.A. No.1 constitute a sufficient ground to condone the delay in making the application under the Act.

5. Shri M. Sreerangaiah, learned Counsel for the respondents, opposes I.A. No.1.

6. We are of the view that every one of the facts and circumstances stated by the applicant, the correctness of which can hardly be disputed, constitute a sufficient ground to condone the delay of 201 days. We therefore allow I.A.No.1 and condone the delay in making the application under Section 19 of the Act.

7. On condoning the delay, with the consent of the Counsel, we have treated the main application as ~~posed~~ <sup>posted</sup> for final hearing today and heard them on merits.

8. The applicant, who joined service as early as on 20.5.1953 as a 'shed Khalasi' in the Southern Railway of



the Indian Railways, was working as an Engineer Driver Grade B on 24.9.1983. On that day, he was in charge of driving a passenger train between Ninaya R.S. and Hirehalli R.S. While driving that train, the applicant was found consuming liquor and had caused its detention also.

9. On the aforesaid developments, the Divisional Mechanical Engineer, Southern Railway, Bangalore as the disciplinary authority (DA) initiated disciplinary proceedings against the applicant under Rule 9 of the Railway servants (Discipline and Appeal) Rules, 1968, and by his order No.B/M.TP 28/GL dated 8.4.1984 (Annexure A1) imposed on him the penalty of removal from service. Against the said order, the applicant filed an appeal before the Divisional Railway Manager, Bangalore, the Appellate Authority (AA) under the Rules who by his order dated 20.7.1984 dismissed the same. Aggrieved by them the applicant filed a review application before the General Manager, Southern Railway, Madras (GM), who on 24.1.1986 dismissed the same (Annexure-D). Hence this application.

10. Shri Shantappa contends that the orders made by the authorities suffer from incurable illegalities and justify our interference.

11. Shri Sreerangaiah, refuting the contention of Shri Shantappa opposes any interference on any technical grounds.



12. The applicant was charged of consuming liquor while driving a train and its long detention to the detriment of passengers. On a consideration of the evidence on record, the Inquiry Officer found that the applicant was guilty of the charge, with which all other authorities had concurred.

13. The findings of the authorities, which are based on evidence cannot be characterised as one in which no reasonable man would have ever reached those conclusions. If that is so, then we cannot upset the findings of the authorities on the guilt of the applicant. We see no merit in any of the grounds urged against the same and we reject the same.

14. Shri Shantaappa, contends that with due regard to the long period of more than 31 years service rendered by the applicant and all other relevant factors, this is a fit case in which this Tribunal should substantially modify the punishment imposed against him and direct his reinstatement to service.

15. Shri Sreerangaiah opposes any modification in the punishment imposed on the applicant.

16. The applicant, who was born on 9.1.1932, joined service on 20.5.1953 and had rendered more than 31 years of service when he was removed from service by the DA. When he was removed from service, he had another six years



of service. Shri Sreerangaiah is also right that the applicant had suffered more than one punishment for one or other dereliction of duty in service. But the previous punishments cannot be the sole ground for holding that no modification in punishment is called for.

17. We are of the view that the long period of service rendered by the applicant and all other relevant factors, justify us to modify the punishment of removal from service to one of compulsory retirement from service from that date, however denying all the arrears of pension till 30.9.1987.

18. In the light of our above discussion, we make the following orders and directions:

- (i) We uphold the finding of guilt against the applicant and dismiss this application to that extent.
- (ii) We allow this application in part and modify the punishment imposed against the applicant in the impugned order to one of compulsory retirement from service from 8.5.1984 from which day he was removed from service by the DA.
- (iii) We direct the respondents to compute the pension and gratuity admissible to the applicant as on 8.5.1984 and make payment of pension due



to him only from 1.10.1987 and onwards and not for the period from 8.5.1984 to 30.9.1987 and gratuity amount due to him with all such expedition as is possible in the circumstances of the case.

19. Application is disposed of in the above terms.

But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

Vice-Chairman 9-10

Sd/-

Member (A) 9.10.98

- True copy -

Gr/Mrv.

B. V. Lakshmi Sd/-  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
28/10