

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWELVETH DAY OF JANUARY, NINETEEN EIGHTYSEVEN

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

APPLICATION No. 6/1987

B.M. Venkatesh
S/o B. Muniswamy,
Ticket Collector,
South Central Railways,
Miraz.

.... Applicant.

(Shri N.S. Prasad, Advocate)

Vs

1. Addl. Divisional Railway Manager,
South Central Railways,
Hubli.

2. Divisional Commercial Superintendent,
South Central Railway,
Hubli.

.... Respondents.

This application having come up for hearing today,
and after hearing both sides, Hon'ble Shri Justice
K.S. Puttaswamy, Vice-Chairman, made the following:

O R D E R

Applicant by Shri N.S. Prasad Advocate.

2. In this application made under Section 19 of the
Administrative Tribunals Act, 1985 (Act), the applicant
has challenged Order No. H/P.86/314 dated 17.1.1986
(Annexure D) of the Additional Divisional Railway Manager

South Central Railway, Hubli (ADRM) modifying the Order dated 3.11.85 (Annexure B) of the Divisional Commercial Superintendent and the Disciplinary Authority, Hubli (DA).

3. At the material time, the applicant was working as a Senior Ticket Collector (STC) in the South Central Railway.

4. In a disciplinary proceeding instituted against him under the Railway Servants (Discipline and Appeal) Rules 1968 (Rules), the DA by his order dated 3.11.85 (Annexure B) imposed the penalty of compulsory retirement from service against the applicant. Aggrieved by the same, the applicant filed an appeal under the Rules before the ADRM who has disposed of the same which has been communicated on 17.1.1985 (Annexure D) substantially modifying and reducing the same to one of reversion to lower grade as Ticket Collector (TC) in the pay scale of Rs.260-400 for a period of two years with loss of seniority. Hence this application.

5. Shri N.S. Prasad, learned counsel for the applicant contends that the order made by the appellate authority which does not conform with the requirements of Rule 22 is not a speaking order. In support of his contention Shri Prasad strongly relies on the ruling of the Supreme Court in RAMCHANDER V. UNION OF INDIA (AIR 1986 SC 1173).

6. In his appeal memo (Annexure C) filed before the ADRM, which we have carefully read, the applicant confined his grievances and relief to the quantum of punishment

only imposed by the DA and did not challenge the same on any other ground at all. On a careful examination of the same the ADRM very rightly taking a sympathetic and humanistic view had substantially reduced the penalty imposed on the applicant from one of compulsory retirement to that of reversion to a lower grade for a period of two years with loss of seniority. When that is so, we will not be justified in holding that the ADRM had not the factors ennumated in Rule 22 of Rules and has not made a speaking orders. We see no merit in this contention of Shri Prasad and we reject the same.

7. When once we hold that the applicant had confined his grievance only to the quantum of punishment and the order made by the ADRM does not suffer from any informity it necessarily follows from the same, that the order made by the DA cannot be interefered by us on any ground that has not been urged before the ADRM.

8. In the light of our ^{above} discussion ~~above~~, we hold that this application is liable to be rejected. We therefore, reject this application at admission stage itself without notice to the respondents.

Ms. D. K. S. S. S. S.
Vice-Chairman 12/1/1987

Dr. K. S. S. S. S. S.
Member (AM) (R) 12.1.1987

Am/Mrv.