

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REGISTERED

APPLICATION No. 188/87(T)

(WP.NO. 12477/85)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 5-6-87

APPLICANT

Shri Mohan

vs

RESPONDENTS

The Sr Divisional Electrical Engr(M), SC Rly,
Hubli and another

TO

1. Shri Mohan
Train Lightening Fitter Gr I
South Central Railway
Gadag
Dist : Dharwad
2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross
Nehru Nagar
Bangalore - 560 001

3. The Senior Divisional Electrical
Engineer (Maintenance)
South Central Railway
Hubli
4. The Divisional Railway Manager
South Central Railway
Hubli
5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Buildings
10th Cross, Cubbonpet Main Road
Bangalore - 560 002

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 188/87

.....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
26-5-87.

ENCL: As above.

ACV DEPUTY REGISTRAR
(JUDICIAL)

o/c

Janil
8/6/87

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 26TH DAY OF MAY, 1987

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

APPLICATION NO. 188/87

Shri Mohan,
S/o Laxman Habib,
aged 52 years,
Railway Service,
Train Lightening Fitter Gr.I,
Gadag. Dist: Dharwad.

... Applicant.

(Shri Suresh S. Joshi, Advocate)

v.

1. Senior Divisional Electrical Engineer
(Maintenance) South Central Railway,
Hubli.

2. Divisional Railway Manager,
South Central Railway,
Hubli.

... Respondents.

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
and after hearing ~~both sides~~, Vice-Chairman made the
following.

ORDER

1. Case called. Applicant and his learned counsel
are absent. We have heard Shri M. Sreerangaiah for the
respondents.

2. In this transferred application received from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985, (the Act) the

applicant has challenged Memorandum No.H/P.227/VI/503 dated 2.8.1985 (Annexure A) and order No.H/P 227/VI/503 dated 26.8.1985 (Annexure C).

3. In his memorandum dated 2.8.1985 the Senior Divisional Electrical Engineer (M), South Central Railway, Hubli and Disciplinary Authority (DA), had proposed to impose the penalty of dismissal from service against the applicant on the basis of his conviction by a criminal court and rejecting his representations made thereto, the DA by his order made on 26.8.1985, had dismissed him from service. The applicant has urged that these were unauthorised and illegal on the ground that an appeal filed by him against his conviction and sentence was pending before the appellate court.

4. When an appeal is filed, entertained and sentence is suspended, either in full or in part, the conviction and sentence imposed do not cease to be effective and disappear. If that is so, then the DA was undoubtedly competent to initiate action and impose the punishment against the applicant even without holding an enquiry. We see no merit in the contention of the applicant to the contrary. From this it follows that this application is liable to be dismissed. If the appeal filed by the applicant before the appellate court is decided in his favour then it is open to him to approach the DA to revise his order.

