

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

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

Dated: 15-12-87

APPLICATION NO 569 /87 (F)

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

APPLICANT

Shri K.P. Muralaeddhar

Vs

RESPONDENTS

The Secy, M/o Railways & 3 Ors

To

1. Shri K.P. Muralaeddhar  
C/o Shri M.S. Anandaramu  
Advocate  
128, Cubbonpet Main Road  
Bangalore - 560 002

2. Shri M.S. Anadaramu  
Advocate  
128, Cubbonpet Main Road  
Bangalore - 560 002

3. The Secretary  
Ministry of Railways  
Rail Bhavan  
New Delhi - 110 001

4. The General Manager  
Southern Railway  
Park Town  
Madras - 3

5. The Chief Operating Superintendent  
Southern Railway  
Park Town  
Madras - 3

6. The Divisional Railway Manager  
Mysore Division  
Southern Railway  
Mysore

7. Shri K.V. Lakshmanachar  
Advocate  
No. 4, 5th Block  
Briand Square Police Quarters  
Mysore Road  
Bangalore - 560 002

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/9004/


~~INTERIM ORDER~~ passed by this Tribunal in the above said application  
on 11-12-87.

RECEIVED 5 Copies 16/12/87

Diary No. 15311/92/87

Date: 16.12.87

Encl: as above.

o/cgr   
DEPUTY REGISTRAR  
(JUDICIAL)

*Recd copy  
16/12/87*

*Received two copies.  
K.P. Muralaeddhar  
(K.P. MURALEEDHAR) 15/12/87*

32  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT BANGALORE.

Coram: Hon'ble Shri L.H.A. Rego, Member(A),

and

Hon'ble Shri Ch. Ramakrishna Rao, Member (J).

DATED THIS THE ELEVENTH DAY OF DECEMBER, 1987.

Application No. 569/87

Between:

Sri K.P. Muraleedhar,  
Rest Giving Station Master,  
Southern Railway,  
Mysore Division.

...Applicant.

(Shri Ammandaramu, Advocate)

and

1. The Union of India,  
rep. by its Secy.,  
Ministry of Railways,  
Raill Bhavan,  
New Delhi.
2. The General Manager,  
S.R., Park Town,  
Madras.
3. The Chief Operating Supdt.,  
S.R.  
Madras.
3. The Divl. Rly. Manager,  
Mysore Divn.,  
S.R.  
Mysore.

...Respondents.

(Shri K.V. Laxmanachar, Advocate)

This application having come up for hearing, Hon'ble Member(J)  
made the following:

*Und*

33  
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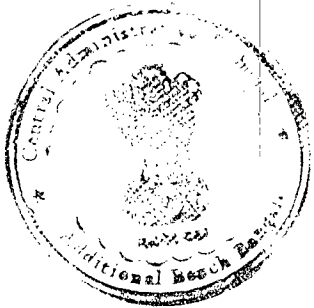
O R D E R

This is an application filed U/s 19 of the Administrative Tribunals Act, 1985.

2. The facts giving rise to the application lie in a very narrow compass. The applicant was working as Rest Giving Station Master (RGSM), since 1983. He was sick from 1.5.1986. However, he resumed duty from 11.5.1986, even though he had not fully recovered from his sickness. A penalty advise was issued by order dated 14.5.1986 by the Office of the Divisional Railway Manager, Mysore - Respondent No.4 ('R4'), informing the applicant that he was removed from service w.e.f. 15.5.1986 A.N. This order was passed by R4, pursuant to the provisions contained in Rule 14(ii) of the Railway Servants (Discipline and Appeal) Rules, 1968 ('the rules, for short') without holding an inquiry as envisaged by the rules. The appeal preferred by the applicant to the 3rd respondent was rejected. Hence this application.

3. Shri M.S. Anandaramu, learned counsel for the applicant, vehemently urges, that the facts and circumstances of the case do not warrant, the conclusion reached by R4, that it was not reasonably practicable, to hold an inquiry in the manner provided in the rules. He has developed his arguments thus:

There was an agitation by the Station Masters' Association in support of certain demands. The applicant had nothing to do with the said agitation, as he was neither an office-bearer<sup>or</sup> a permanent member of the association. In view of that agitation, certain instructions appear to have



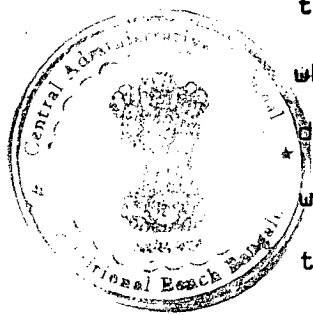
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been issued to the authorities to see that every Asst. Station Master, including RGSMs do not take leave at all. The order of removal was totally unjustified, as the authorities proceeded on the basis, that the applicant had intimated, that he was sick only on account of the agitation. This was a question of fact, which ought to have been determined, by holding an inquiry after giving an opportunity to the applicant. The office-bearers of the <sup>Association</sup> ~~Union~~ <sub>IR</sub>, were removed from service and others were not removed from service, except the applicant. Hence the order of removal is arbitrary, and illegal.

4. Shri K.V. Laxmanachar, learned counsel for the respondents, submits, that under rule 14(ii) of the Rules, it was within the competence of R4, to dispense with the holding of an inquiry, for reasons to be recorded in writing, if he was satisfied that it was not reasonably practicable to do so. Sufficient reasons have been recorded in the penalty advice, by the disciplinary authority (R4), as to why it was not practicable, to hold the inquiry against the applicant and the order removing the applicant from service is legally justified.

5. We have considered the rival contentions carefully and perused the file, wherein the penalty advice was passed by R4. It is stated therein, that on a thorough and detailed investigation of the events which took place on 11.5.1986, it was established, that the applicant deliberately feigned sickness of a nature, far more serious than he was <sup>was</sup> what he reported/suffering from. It was further established, that the applicant was guilty of deliberately causing disruption to train services. From a perusal of the file produced before us, by the



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respondents, it is apparent, that the statements of several persons were obtained by R4, based on which, he came to the conclusion, that the applicant was not a fit person to be retained in railway service, due to his dereliction of duties and indisciplined behaviour. We do not find any justifiable reason, for not holding the inquiry, when so much material has been gathered by R4. Normally, in such cases, the delinquent is confronted with the evidence - oral and documentary -, ~~and based on the same~~ <sup>and</sup> charges are framed and the delinquent is given an opportunity to defend himself. We do not see any ~~object~~ <sup>objection</sup> reason for departing from the normal method.

6. R4 was however of the view, that in the atmosphere of tension, prevailing then, on account of the unauthorised and uncalled for agitation, started by All India Station Masters' Assn., Mysore Division, ('Association'), taking disciplinary action in the normal way, against the applicant was not reasonably practicable. R4 was also apprehensive that in all probability, the applicant would resort to further <sup>de</sup> dilatory tactics, by reporting that he was sick, or absent himself from duty and the staff summoned as witnesses would feel intimidated in the atmosphere of tension. The reasons given by R4, in our view, do not appear to be substantial, so as to dispense with the holding of the inquiry as envisaged by the rules. The so-called tension is only a temporary phenomenon, and it could have been surmounted, by placing the applicant under suspension and holding the inquiry after normalcy was restored. Nor are we satisfied that any apprehension regarding <sup>de</sup> dilatory tactics or intimidation of witnesses, which the applicant might adopt, ~~is~~ <sup>is</sup> a tenable ground for not holding the inquiry. We have

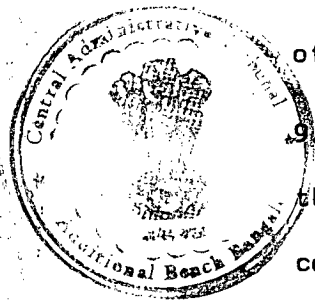
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no doubt in our minds, that if such factors were to be taken into account, it will not be practicable to hold inquiries in a vast majority of cases.

7. The view we have taken is in conformity with the law as laid down by a Full Bench of the Allahabad High Court in MAKSDAN PATHAK VS. SECURITY OFFICER (1981)2 SLR 451 (All)(FB), which was followed by a Bench of this Tribunal in SRI KANT MISRA VS. UNION OF INDIA 1987 (1) ATJ (Vol.II) p.179.

8. Turning to the complaint of the applicant, that he alone has been singled out for removal from service, vis-a-vis others, who absented from duty in the context of the agitation, ~~we direct the respondents to examine the correctness of the allegation made by the applicant.~~ <sup>de</sup> In this connection, we consider it pertinent to refer to a decision of the Supreme Court in SENGARA SINGH & OTHERS VS. STATE OF PUNJAB AND OTHERS (1984(1) LLJ P.161, in which it was held, that reinstatement of 1000 persons dismissed from <sup>de</sup> police force in the State of Punjab in their original posts, but not 100 others similarly placed, was discriminatory and <sup>de</sup> offended the right to Equality guaranteed under Article 14 of the Constitution of India. Therefore, if other Station Masters who participated in the agitation have not been removed from service in the manner done as in the case of the applicant, he should also be treated alike and reinstated.

9. After giving careful thought to the matter, we are satisfied that the reasons recorded by the DA, are not sufficient to come to the conclusion, that it was not reasonably practicable to hold the inquiry in the manner provided under the Rules. Accordingly, we quash the penalty advised <sup>de</sup> issued by the DA, on 14.5.1986 (Annexure-A) as also the appellate order dated 23.10.1986 (Annexure-B), and direct the



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respondents to reinstate the applicant, in the post he was holding at the time of his removal from service, with immediate effect. We also direct the respondents, to regularise the intervening period of his absence, consequent to his removal from service and reinstatement, by granting him leave of any kind to which he is entitled, including ~~Extra-Ordinary~~ Leave admissible to him, within a period of two months from the date of receipt of this order. The competent authority is also directed to pay the applicant all arrears of leave salary. The competent authority is at liberty to initiate departmental inquiry afresh, if so desired.

10. In the result, the application is allowed. Parties to bear their own costs.

Sd/-  
MEMBER(J)

Sd/-  
MEMBER(A) N. K. C. 98

-True copy -

for DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
15/12/87

GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF TRANSPORT (~~PARIVAHAN MANTRALAYA~~)  
~~DEPARTMENT OF RAILWAYS (RAIL VIBHAG)~~  
(RAILWAY BOARD)

38

No.E(G) 8

7-LL3-6(296)

New Delhi, dated

22/12/1987

To,

The Registrar, Central Administrative Tribunal,

Bangalore Bench

Bangalore

Sub:

Amo. 569/87

Sir,

K.P. Muralidhar - Dy. Secy. of Railway  
2308/

I am directed to refer to your summons/orders dated 11-12-87 on the subject mentioned above and to state that the General Manager, S. Railway is the competent authority to deal with this matter. The summons/orders in question have, therefore, been sent to that authority for further necessary action.

Yours faithfully,

Phandel

for Secretary, Railway Board.

DA: Nil.

No. E(G) 8

7-LL3-6(296)

New Delhi, dated

22/12/1987

Copy together with the summons/orders received from the Tribunal/Court are forwarded in original to the General Manager, S. Railway for further necessary action.

Southern

The next date of hearing is

DA/As above.

Desk Officer, Establishment  
Railway Board

R. 11/1/88  
K.B.



39

*Filed in Court*  
*(Q)*  
*29/10*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Application No. 569/87

BETWEEN :

K.P.MURALIDHAR

.. APPLICANT

AND :

The Secretary,  
Ministry of Rlys. and Others

.. RESPONDENTS.

REPLY ON BEHALF OF RESPONDENTS

The applicant has not exhausted all the remedies available to him under the Discipline and Appeal Rules and therefore the application is liable to be dismissed.

2. Wherefore the Respondents prays that the application may be dismissed with costs.

3. It is true that the applicant initially joined service as a Signaller/Asst. Station Master Trainee and at the time of his removal from service he was working as Rest giving Station Master with Savanoor as his Head Qrs., in scale Rs.550-750.

4. The applicant was rostered to work at Gudigeri Station from 9 to 17 Hrs. on 11-5-86. At 12.20 Hrs., he issued a message to the control at Mysore as follows:

" Self sick unable to travel or even to move.

DOS to please arrange relief intime to avoid dislocation of Train Services".

5. On receiving the above message, the Control Office instructed the applicant to call for any of the Duty Assistant Station Master available at the Station to which the applicant merely replied "I do not know".

*[Signature]*  
contd..

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6. The station master on duty at Saunshi (next Station) informed the control at 13.05 Hrs. that the applicant has refused to give line clear for No.204 Express train which was expected to pass through Saunshi at 13.10 Hrs. The Section Controller at Mysore Control Office directed the applicant to grant line clear for the said Express Train to which the applicant replied that he was sick and unable to move and that he had given a sick memo. The train left the said station at 13.55 Hrs. Meanwhile another Asst. Station Master was directed to proceed to Gudigeri and the applicant refused to hand over the block keys to that Asst. Station Master. Meanwhile, some of the passengers who were travelling by Train No.204 express came down to the station room and lifted the applicant and took him to the train for treatment by a Doctor, who was travelling in the same train. The applicant refused to take treatment. In fact, <sup>when</sup> he was thus confronted by the passengers, he walked back to his room. These were reported in the statements recorded by the Driver, the Diesel Assistant and the Guard of 204 Express.

7. Subsequently, the whereabouts of the applicant was not known to the respondents. Dr. Krishnamurthy, an Asst. Divisional Medical Officer, Harihar was deputed to go to Gudigeri by Road and he reached the said place late in the evening by which time the applicant was neither present in the station nor in the quarters. On further investigation, it came to light that the applicant had gone to a Govt. Doctor in the Primary

41  
(3).

in the Primary Health Centre at Gudigeri and was treated as an Out-patient for respiratory infection and was advised four days rest. These facts were never reported to the Control or any other authority by the applicant. It is clear that the applicant has refused to take treatment by the Doctor who was available in Train No. 204 Express, even though he had stated in his message to the control room that he was unable to move or to send word to any of the staff available at the station for taking over charge from him. The Doctor at the Primary Health Centre, Gudigeri who examined him only stated that he had an upper respiratory infection, which does not incapacitate a person to move about or send for words.

8. Holding up of trains that too during hot summer after-noon, causes tremendous inconvenience and hardship to the travelling public. In fact the mob's fury on such occasions may result in destruction of valuable Railway property. It is a fact that the applicant reported sick when the trains were waiting on either side for clearance. The refusal to take treatment by the applicant by a Doctor who was available in the said train and the refusal to send words to the available Assistant Station Master to look after the work was deliberate with a view to cause hardship to the public, disrupt train services, particularly of long distance important Express Trains on hot summer afternoon. Such an act amounts to misconduct on the part of the Railway employee.

(4)

9. The applicant has a history of indiscipline behind him. For example, on 28-4-86, he sent a control message requesting for leave from 4-5-86 to 8-5-86 to preside over the World Eunuch Conference at Chennapatna. The applicant is an active member of an unrecognised All India Station Master's Association and was in the habit of indulging in such acts of indiscipline. A letter dt. 27-5-86 from him addressed to DRM by name will strengthen the argument (vide Annexure-I). It was clear that the action of the applicant was designed to disrupt normal running of trains in support of an agitation started by the above said unrecognised association. In the interest of maintaining normal train services for general public, such deliberate acts of mis-conduct were dealt with severely by the respondents. If the applicant were really sick, as stated by him, he should have availed the facility of medical treatment extended to him on 11-5-86, by a doctor who was travelling in No. 204 Express Train, instead of refusing the same.

10. In the atmosphere of tension that prevailed on account of the unauthorised and uncalled for agitation by the said Association in the Mysore Division, it was not, reasonably practicable to hold an enquiry into the above act of mis-conduct of the applicant. Moreover, subsequent to reporting sick on 11-5-86, the whereabouts of the applicant was not known and he has not reported to the Rly. Doctor for taking treatment. He was not available at his duty station when the Rly. Doctor was specially deputed to give him treatment.

  
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It was, therefore, concluded that had an enquiry been  
 ordered the applicant would have adopted delay tactics  
 to protract the disciplinary proceedings and disrupt the  
 same. Therefore, from this aspect also, it would not be  
 reasonably practicable to hold the enquiry into the  
 charges framed against the applicant. Further, the staff,  
 who could have given the evidence in this case, would  
 have been intimidated in the atmosphere of tension that  
 prevailed at that time.

Therefore, it was decided by the disciplinary  
 authority that holding of normal disciplinary enquiry was  
 not reasonably practicable into the charges framed against  
 the applicant and immediate action was taken by the  
 disciplinary authority to deal with the situation. The  
 disciplinary authority was satisfied that there were  
 sufficient grounds to dispense with the normal disciplinary  
 enquiry and in terms of powers vested in him, under  
 Rule 14(ii) of the Disciplinary and Appeal Rules 1968, the  
 disciplinary authority decided to remove the applicant  
 from service with effect from 15-5-86. The above said  
 orders of the Disciplinary Authority is not arbitrary and is  
 in accordance with law and rules in force.

Against the order of the Disciplinary Authority, the  
 applicant preferred an appeal to the Chief Operating  
 Superintendent, Madras who is the appellate authority in  
 this case, on 27-5-86 and the same was dismissed by him  
 after duly considering the appeal as per rules.




(6)

13. The applicant was initially appointed as Signaller/ASM Trainee w.e.f. 16-10-61 by the Divisional Personnel Officer/Mysore. He was promoted to his present scale of Rs.550-750 by the Divisional Railway Manager/Mysore w.e.f. 11-10-1984 (copy of the office order enclosed). Powers for making appointment/promotion against the post in scale Rs.550-750(RS) has been delegated to DRM. Therefore, Divisional Railway Manager, Mysore is the appointing authority in his case. The removal of the applicant by the Divisional Railway Manager, Mysore, is in order.

14. The contention of the applicant that disciplinary action ought to have been taken by an officer working in the same branch in which the applicant is working is not correct. The circular of the Railway Board and the provisions of the Railway Establishment Code referred to by the applicant are not relevant to the facts of the case. According to rules, an employee can be removed from service by the appointing authority or an authority equal in rank to that authority or by any other higher authority. DRM has full powers to take disciplinary action against any staff working in his division. The Divisional Railway Manager, being the Head of Mysore Division has got administrative control over the entire Mysore Division including the Operating Branch, in which Branch the applicant was working.

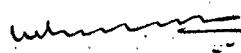
15. The applicant was receiving the trains upto 12.00 Hrs. on 11-5-86 and at 13.05 Hrs., he refused to give line clear to Train No.204 Express which had suffered detention between Saunshi and Gudigeri on the ground that he was sick and unable to move

 - 7

(8)

19. The removal of the applicant from service is in accordance with law and is not done in an arbitrary manner. The applicant has not been discriminated and the order is reasonable.

20. The applicant is not entitled to any of the reliefs claimed in the application.

  
ADVOCATE FOR RESPONDENTS

25/10/87

  
RESPONDENT

VERIFICATION

I, C.Muthumanickam, the Divisional Personnel Officer at Mysore Division, Southern Railways, having the necessary authorisation do hereby declare that what is stated above is true to the best of my knowledge, information and belief and further they are based on records maintained in my Office.

MYSORE

  
RESPONDENT

19-10-1987

45  
(7)

to move and when he was asked to call the local SM, he stated that he was not in a position to call anybody and when a doctor travelling by No.204 Express offered to give him treatment on that spot, he refused to take the treatment. He also refused to hand over block keys to Sri Nakeeran who has proceeded to Gudigeri to take over from the applicant and thus irritated the public who would have proved more violent but for the intervention of the Guard and the Driver of the train and thereby caused detention to the important train and also to two passenger trains. Taking these facts and the atmosphere of tension prevailing at that time on account of the unauthorised agitation of All India Station Masters' Association, it was not practicable to hold the enquiry. 2

16. The contention of the applicant that there is no nexus between the hunger strike, held by the Station Masters Association and him is not correct. It has been proved by records that the applicant was actively participating in the agitation.

17. The removal of the applicant is in accordance with Law and is not violation in any of the provisions of the constitution.

18. The contention of the applicant that the order of the appellate authority is not a speaking order is not correct. The appellate authority has given findings on each of the contentions raised by the applicant in his appeal and has passed a speaking order.

  
-8



From

Shri K.P.MURALEEDHAR  
Ex. Station Master,  
Near Lakshmi Talkies,  
TOLAHANSE-577 514.

ANNEXURE : I

REGD. A. D.

Tolahanse,  
Dt. 27-5-86.

To

Mr. Ramaswamy,  
Divisional Railway Manager,  
Southern Railway,  
MYSORE.

IF YOU ARE A B.P. PATIENT, PLEASE  
DO NOT READ THIS LETTER. OTHERWISE,  
GO THROUGH IT CAREFULLY, ANSWER THE  
QUESTIONS TO YOURSELF AND TAKE IT  
SPORTIVELY. IF YOU FEEL THAT YOU  
ARE WRONG, KEEP IT IN MIND AND DON'T  
DO INJUSTICE TO ANYONE ELSE.

According to you, I am not a Railway  
Employee now and so I need not be  
submissive or subordinate to you.  
So, I address you by your name.

Mr. Ramaswamy,

I am in receipt of your letter No. Y/TIG/AGTN/MAY'86/1  
of 14-5-86, copies of which were already pasted on Notice  
Boards of SVNR, etc. on 15-5-86 itself through special  
messengers even before serving the same to me through SM/SVNR  
on 16-5-1986 at 15-30 Hrs., terminating my services with  
effect from 15-5-86 afternoon, as if, I were to be a Casual  
Labour/Substitute Labour or your house servant.

As a DRM, you are not supposed to commit silly mistakes.  
If you yourself are ignorant of rules, what will be the fate  
of the poor employees working under you. They will have to  
suffer and suffer and suffer only. Let me ask you a very  
simple question. Is there any SS post at SVNR? Do you know  
at how many stations in Mysore Division there are Station  
Superintendents? You may be knowing that ignorance of rule is  
not an excuse. So sending a termination Notice to a 550-750 SM  
on a plain paper without your signatures on each page with  
official designation seals is not a proper order. Even in the  
last page you have not put the official seal. Don't you have  
an official seal as DRM? It is really a shame. Stop dancing  
to the tune of the SRE Sangh lest you should collapse. You  
yourself admit that large number of SMs are joining the  
agitation without any call from AISMA, that means you admit that  
the 1/2 a dozen Station Masters in the SRE Sangh are there only to

(2)

protect their own interests and loot the Railway Revenue whenever chances arise, like the present SM's agitation, etc. By the by have you any record to prove that I am a member of AISMA or am taking part in any activities of AISMA. Is the AISMA an illegal or banned Organisation. Are not the members of AISMA disciplined, civilised, cultured and very Gandhian in the real sense. Is the AISMA untouchable. Recognition is not <sup>in</sup> your hands or in my hand. So, let us leave it here itself.

Are you competent to say, whether I was really sick or not? Have you any degree in Astrology, and if so, from which University? So your conclusion that, I was not so sick as to report sick is really ridiculous. I fell ill at 12.20 Hrs. and you admit that as a responsible Station Master I had given the message to ADMO/HRR and DOS/MYS on control phone. Did you take any action to save my life? What made you not to bring a Railway Doctor from Hubli very near to Gudgari with an ambulance for immediate medical aid. Instead you brought the Railway Doctor from Harihar at 21.25 Hrs. For what? to issue the death certificate. There was sufficient time to arrange relief to me. Instead, of arranging relief to me you brought one express and one passenger train from SNH one after the other and a light engine from Yalvigi side without proper authorities violating GRS and instigating the agitating and furious passengers to assault or even to murder me. Are you justified or can you be called a DRM? When you say that the Railways as a public service organisation has a primary duty of running the trains punctually and safely, are you as DRM not expected to rise to the occasion and act in time for which you have been paid. If you are safety conscious, how did you allow one express train and another passenger train to follow one another without any proper authority and bring one LE from the Opposite direction to a Station where the Station Master was incapacitated. So have you not failed in your primary duty itself. Again, if you were to be punctuality conscious, you could have brought relief to me either by LE or by Motor Trolley or even by Jeep which were at your easy disposal and detentions to Express and Passenger trains could have avoided and saved me from the harsh mob attack. So are you not guilty of negligence of duty.

(3)

You say that I was not available at GDI Station when ADMO/HRR arrived at 21.25 Hrs. to give me treatment. Are you not ashamed to tell that, because even a layman knows that a patient is to be given medical aid at the earliest and requires rest and as a DRM you are telling that I was not lying on the open platform unprotected and uncared for till the Railway Doctor arrived at 21.25 Hrs. ie., 9 Hours after giving the message. You must know that I am a responsible father of 3 children and I do not want my wife to be a widow. I think you are not staying with your wife and children and so you may not be knowing what is attachment.

Was the SM's agitation for air-conditioning their Offices or quarters or for providing swimming pools or TVs at Stations? When your wife is serious or when your children fell ill, won't you take them to hospital for immediate medical care to save their lives or will you allow them to breath their last as you could not avail leave for want of sanction. Most station masters are working at inconvenient stations far away from their beloved parents. As a devoted son, the station masters will have anxiety to see their parents when they are alive. I think you may be an orphan now and so you cannot understand the feelings of a true son when he gets an urgent message from his far away native place about the serious condition of his parent. If you were to be a really human being with sense, you would not have allowed the station Masters to agitate like this and even take the risk of hunger fast till death on the leave ~~sanction~~ sanctioning issue. Oh my God, bless Mr. Ramaswamy with some thinking power, understanding ability, correct reasoning capacity and some good sense for the welfare of thousands of helpless Railway Employees working under him. Is there any sense or meaning in your telling that I would disrupt the conduct of disciplinary action, If an enquiry is ordered to prove the alleged charges against me. That is to say that you are underestimating yourself and you may be suffering from chronic inferiority complex. Please consult some efficient Psychiatrist and strictly obey his advices. .

(4)

Mr. Ramaswamy, Railway was there even before your birth and it will be there in a still more advanced stage even after your death. Who knows some Robots may be working as DRM or DOS or even as a Station Master in the near future. So Railway is not depending on us, but we are only depending on Railways. Please mind it.

You must know that the people who framed the Rules and Regulations were clever, intelligent and eminent and that is why the provision for Appellate Authorities to do justice to the helpless, innocent.

Employees from Harrassment of short-sighted, narrowminded ignorant and self-condemned officers. If the Appellate Authority, the COPS/MAS in this case, confirms and justifies your hasty baseless and meaningless decision, you can settle my Account ~~at~~ at Tolahunse where I am settled. My address for your information is given below.

K.P.MURALIDHAR  
Ex.Station Master,  
Near Lakshmi Talkies  
TOLAHUNSE-577 514.

If your intention was to just demoralise the Station Masters, Mr. Ramaswamy, you have miserably failed. AISMA is becoming stronger and stronger. Only Officers like Mr. Koil Pillai, A.P. Tharakan, Mascamhas, etc., can weaken AISMA by their amicable and prompt response to genuine complaints, for their kind heartedness, generosity, ability to understand the feelings of employees, politeness, ability to command respects among the employees, etc. etc. Your way of dealing the problems, is in the reverse gear which you please note and correct yourself if with to retire as a respectable Gentleman.

In view of the above circumstances, I would further like to state that you have attempted to murder me and thousands of innocent passengers and this can be proved beyond any doubt. But I have no powers to dismiss you; However, I am giving you 15 days time to say why you should not be prosecuted in a Court of Law for the criminal offences narrated above.

With no reason to thank you and with no reason to be faithful

W  
/copy/

Sd/- K.P.MURALIDHAR, 2

<sup>14</sup> and loss  
/to the respondent as it is open  
to this Tribunal to regulate  
the payment of salaries for the  
period he has been prevented to  
join service. In these circum-  
stances, we consider it proper  
to stay the operation of the  
order made by this Tribunal in  
A.No. 569/87"

Since the applicants in the RA have not implemented the directions passed in OA, for the obvious reason that they were challenging the order in the RA, this Tribunal made it clear that the respondent in the RA should not suffer on account of his being prevented from joining service.

17. We, therefore, consider that the ends of justice would be met if we direct the applicants in RA to:

(i) take the respondent in the post he was holding at the time of his removal from service within a week; and

(ii) pay the arrears of salary and allowances to the applicant for the period from 11.12.1987 when the order in OA was passed till the date of this order i.e. 24.6.1988 on the basis of pay drawn by the applicant before removal from service with interest at the rate of 12% per annum within two weeks from the date of receipt of the order; and

(iii) pay the exact amount due to the respondent from the date of his removal from service

*Carb*

14. The crux of the matter is whether it was possible for R-4 to hold the enquiry. It is common ground that the advice penalty dated 14.5.1986 was served on the applicant and if so, we see no force in the submission that the whereabouts of the applicant were not known and the notice regarding the holding of the enquiry could not be served on him. These facts are somewhat reminiscent of the facts in ARJUN CHAUBEY v. UNION OF INDIA (1984 SCC (L&S) page 290). The appellant in that case submitted his further explanation on being called upon to do so but on the very next day, the DCCS passed an order dismissing him without holding an enquiry. This case is referred to in the SC decision.

15. On a review of the facts and circumstances of this case, we cannot escape the feeling that the respondents in the DA acted with great haste and R-4 did not pause to consider whether it was reasonably practicable to hold an enquiry but acted on mere surmise that the applicant in the DA would adopt dilatory tactics and intimidate the witnesses. We are, therefore, satisfied that the order dated 11.12.1987 does not call for review.

16. We shall now proceed to consider the relief which the respondent in the RA is entitled to, based on the following observations in the order of this Tribunal dated 20.1.1988:

\* An order of stay will not result in serious injury



*as*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 29 JUN 1988

REVIEW APPLICATION NO. 3 / 88  
IN APPLICATION NO. 569/87(F)  
W.P. NO. \_\_\_\_\_

Applicant(s)

The Secretary, M/o Railways,  
To New Delhi & 3 Ors

Respondent(s)

V/s Shri K.P. Muralidhar

1. The Secretary  
Ministry of Railways  
Rail Bhavan  
New Delhi - 110 001
2. The General Manager  
Southern Railways  
Park Town  
Madras - 600 003
3. The Chief Operating Superintendent  
Southern Railway  
Park Town  
Madras - 600 003
4. The Divisional Railway Manager  
Southern Railway  
Mysore Division  
Mysore

5. Shri K.V. Lakshmanachar  
Railway Advocate  
No. 4, 5th Block  
Briand Square Police Quarters  
Mysore Road  
Bangalore - 560 002
6. Shri K.P. Muralidhar  
Tolahunse - 577 514  
Davanagere Taluk  
Chitradurga District
7. Shri K. Subba Rao  
Advocate  
128, Cubbonpet Main Road  
Bangalore - 560 002

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 <sup>Review</sup> application(s) on 24-6-88.

Encl : As above

*B. V. Subba Rao*  
DEPUTY REGISTRAR  
(JUDICIAL)

52

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE <sup>24th</sup>~~28th~~ DAY OF JUNE, 1988

Present : Hon'ble Sri L.H.A.Rego Member (A)

Hon'ble Sri Ch.Ramakrishna Rao Member (J)

Review Application No.3/88.

1. The Secretary,  
M/o Railways,  
Rail Bhavan, New Delhi.
  2. The General Manager,  
Southern Railway,  
Park Town,  
Madras - 3.
  3. The Chief Operating  
Superintendent, Southern  
Railway, Park Town,  
Madras - 3.
  4. The Divisional Railway  
Manager, Mysore Divn.,  
Southern Railway,  
Mysore. ... Applicants
- ( Sri K.V.Lakshmanachar ... Advocate )

vs.

K.P.Muralidhar,  
R/a Tolahunse Village,  
Davangere Taluk,  
Chitradurga Dist. ... Respondent

( Sri K.Subba Rao ... Advocate )

This application has come up for hearing today. Hon'ble Sri Ch.Ramakrishna Rao, Member (J) made the following :

O R D E R

Respondents in O.A.No. 569/87(OA) have filed R.A. 3/88 (RA) seeking review of the order passed by this Tribunal on 11.12.1987.

...2/-

*Cuf*





2. The target of attack in the OA was the penalty advice dated 4.5.1986 issued by the respondent-4 (R4) therein to the applicant in the OA who was working as Rest-Giving Station Master (RGSM) since 1983. The respondents resisted the application on two grounds :  
(1) R4 had given reasons as to why it was not reasonably practicable to hold the enquiry; and  
(2) the conclusion reached by R4 could not be assailed in law by the applicant. This Tribunal disagreed with the conclusion reached by R4 that it was not reasonably practicable to hold the enquiry under rule 14(ii) of the Railway servants (Discipline & Appeal) Rules, 1968 (Rules, for short) which is analogous to the second proviso to Article 311(2)(b) of the Constitution of India. Accordingly, this Tribunal directed the respondents to reinstate the applicant in the OA in the post he was holding at the time of removal from service with immediate effect. Consequential directions for compliance within two months were also issued.

3. The respondents in the OA did not choose to comply with the directions given in the order of this Tribunal. Instead, they filed the RA on 11.1.1988 after a lapse of one month.

4. The sheet-anchor of the argument of Sri K.V.Laxmanachar, learned counsel for the applicants in the RA, is the judgement of the

Supreme Court in UNION OF INDIA v. TULSIRAM PATEL ( AIR 1985 SC 1460), (hereinafter referred to as the SC decision). According to Sri Laxmanachar, the order of this Tribunal dated 11.12.87, suffers from an error apparent on the face of the record within the meaning of that phrase, as occurring in O.47 R.1 of CPC, which has been made applicable to the proceedings before this Tribunal, inasmuch as the ratio of the SC decision, which is the law of the land as stated in Art.141 of the Constitution, has not been applied to the facts of the present case.

5. Sri K.Subbarao, learned counsel for the respondents in the RA, in a forceful and resourceful argument, refutes<sup>the</sup> the contention of Sri Laxmanachar, thus : The SC decision has no application to the facts of the present case. Alternatively, the SC decision was noticed in SHRIKANT MISRA v. UNION OF INDIA (1987(1) ATJ 179), to which reference was made in the course of the order under review, which, by necessary implication, means, that the Tribunal had taken into account the ratio of the decision of the SC decision. No new proposition of law has been laid down in the SC decision regarding the point raised for consideration in the OA. The law as applied by this Tribunal, in the order dated 11.12.1987 does not suffer from any infirmity so as to call for review.

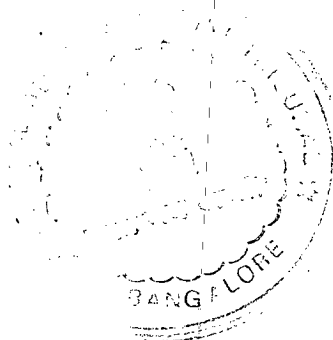


*[Handwritten signature]*

6. We have considered the rival contentions carefully. We are clear in our mind that the SC decision has no application to the facts of the case on hand and presumably for this reason it was not cited by Sri Laxmanachar in the course of his arguments in the OA. The importance of the SC decision consists in over-ruling the decision in D.P.O., Southern Railway vs. T.R. Challappan 1976 S.C.C.(L&S). Even otherwise, the reference in the order of the Tribunal dated 11.12.1987 to the decision earlier rendered by this Tribunal in SHRIKANT MISRA's case cited supra, leads to the <sup>ir</sup>irresistible inference that the SC decision was considered sub silentio. In any case, omission to cite the SC decision may amount to an error of law simpliciter, which does not attract <sup>O</sup>or <sup>47</sup> R.1 CPC. We, therefore, repel the contention of Sri Laxmanachar that the order of the Tribunal dated 11.12.1987 suffers from an error apparent on the face of the record, so as to call for interference.

7. This is sufficient to dispose of the RA. However, since arguments have been advanced touching the applicability of the SC decision to the present case, we shall briefly deal with the same.

8. At the forefront of his argument, Sri Laxmanachar placed considerable reliance on the law enunciated in the SC decision in paragraphs 173 and 174 which read as under :



- 7 -

that these observations were made in the context of a situation where the holding of an enquiry itself is not reasonably practicable. In the present case, however, we have pointed out that the so-called tension was only a temporary phenomenon and any apprehension of dilatory tactics which the applicant might adopt is not a valid ground for not holding an enquiry. In other words, we were of the view that the bare apprehension on the part of R-4 regarding the dilatory tactics and intimidation of witnesses is not a cogent ground for dispensing with the enquiry. The observations contained in para 132 of the SC decision, extracted below strengthen the view taken by us :

It is not necessary that a situation which makes the holding of an inquiry not reasonably practicable should exist before the disciplinary inquiry is initiated against a government servant. Such a situation can also come into existence subsequently during the course of an inquiry, for instance, after the service of a charge-sheet upon the government servant or after he has filed his written statement thereto or even after evidence has been led in part. In such a case also the disciplinary authority would be entitled to apply clause (b) of



*ad*

the second proviso because the word 'inquiry' in that clause includes part of an inquiry. It would also not be reasonably practicable to afford to the government servant an opportunity of hearing or further hearing, as the case may be, when at the commencement of the inquiry or pending it the government servant absconds and cannot be served or will not participate in the inquiry. In such cases, the matter must proceed ex parte and on the materials before the disciplinary authority. Therefore, even where a part of an inquiry has been held and the rest is dispensed with under clause (b) or a provision in the service rules analogous thereto, the exclusionary words of the second proviso operate in their full vigour and the government servant cannot complain that he has been dismissed, removed or reduced in rank in violation of the safeguards provided by Article 311 (2).

....9/-

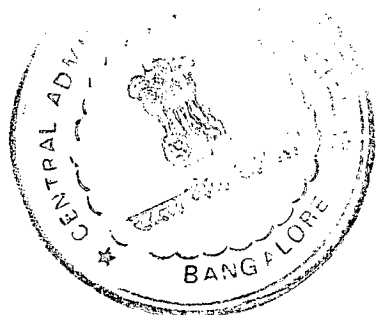
In the context of an all-India strike where a very large number of railway servants had struck work, the railway services paralysed, loyal workers and superior officers assaulted and intimidated, the country held to ransom, the economy of the country and public interest and public good prejudicially affected, prompt and immediate action was called for to bring the situation to normal. In these circumstances, it cannot be said that an inquiry was reasonably practicable.

On a careful examination of the facts of these cases and the impugned orders, we find that in each of these cases clause (ii) Rule 14 of the Railway Servants Rules or clause (b) of the second proviso to Article 311 (2) or both, as the case may be, were properly applied. All these matters therefore require to be dismissed.

These observations have no application to the present case since we are not confronted with a situation <sup>where</sup> ~~where~~ a strike of all-India magnitude, paralysing the railway services and holding the country to ransom.

9. Sri Laxmanachar next calls in aid the legal position as set out in para 129 of the SC decision, which reads as follows :

The next contention was that even if it is not reasonably practicable to hold an inquiry, a government servant can be placed under suspension until the situation improves and it becomes possible to hold the inquiry. This contention also cannot be accepted. Very often a situation which makes it not reasonably practicable to hold an inquiry is of the creation of the concerned government servant himself or of himself acting in concert with others or of his associates. It can even be that he himself is not a party to bringing about that situation. In all such cases neither public interest nor public good requires that salary



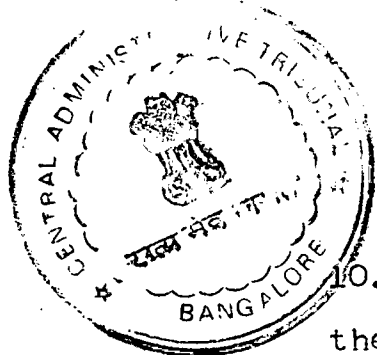
or subsistence allowance should be continued to be paid out of the public exchequer to the concerned government servant. It should also be borne in mind that in the case of a serious situation which renders the holding of an inquiry not reasonably practicable, it would be difficult to foresee how long the situation will last and when normalcy would return or be restored. It is impossible to draw the line as to the period of time for which the suspension should continue and on the expiry of that period action should be taken under clause(b) of the second proviso. Further, the exigencies of a situation may require that prompt action should be taken and suspending the government servant cannot serve the purpose. Sometimes not taking prompt action may result in the trouble spreading and the situation worsening and at times becoming uncontrollable. Not taking prompt action may also be construed by the trouble-makers and agitators as a sign of weakness on the part of the authorities and thus encourage them to step up the tempo of their activities or agitation. It is true that when prompt action is taken in order to prevent this happening, there is an element of deterrence in it but that is an unavoidable and necessary concomitance of such an action resulting from a situation which is not of the creation of the authorities. After all, Clause (b) is not meant to be applied in ordinary, normal situations but in such situations where it is not reasonably practicable to hold an inquiry.

Relying on this passage, Sri Laxmanachar contests the correctness of the view taken in para 6 of the order of this Tribunal that the applicant could have been placed under suspension and enquiry held after normalcy was restored. True, the SC has not viewed with favour the placing under suspension of a government servant until the situation improves. But it should not be forgotten



Some illustrations have also been given in para 130 of the SC decision where it would not be reasonably practicable to hold the enquiry and we may usefully reproduce the same:

"..... It would not be reasonably practicable to hold an inquiry where the government servant, particularly through or together with his associates, so terrorizes threatens or intimidates witnesses who are going to give evidence against him with fear of reprisal as to prevent them from doing so or where the government servant by himself or together with or through others threatens, intimidates and terrorizes the officer who is the disciplinary authority or members of his family so that he is afraid to hold the inquiry or direct it to be held. It would also not be reasonably practicable to hold the inquiry where an atmosphere of violence or of general indiscipline and insubordination prevails, and it is immaterial whether the concerned government servant is or is not a party to bringing about such an atmosphere. In this connection, we must bear in mind that numbers coerce and terrify while an individual may not. The reasonable practicability of holding an inquiry is a matter of assessment to be made by the disciplinary authority."



10. In view of the above, we are satisfied that the view taken by us in para 6 of our order dated 11.12.1987 is sound.

11. Even so, Shri Laxmanachar contends that the twin criteria, to be fulfilled are: (1) the delinquent is prima facie liable to be punished for the misconduct

*[Handwritten signature]*



alleged against him; and (2) the DA should be satisfied for some reason to be recorded in writing that it is not reasonably practicable to hold the enquiry. If these two conditions are fulfilled, this Tribunal is not empowered to sit in judgment over the decision of the DA.

12. Shri Subbarao submits that a limited power of judicial review continues to exist in courts as is clear from the following passage occurring in para 130 of the Supreme Court decision:

"..... a disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail. The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such a case the court will strike down the order dispensing with the inquiry as also the order imposing penalty."

13. After considering the pros and cons, we are satisfied that it is within the competence of this Tribunal to scan the DA's decision <sup>i.e., decision</sup> of R-4 that it was not reasonably practicable to hold the enquiry. This was done in para 6 of the order dated 11.12.1987 and for the reasons enunciated therein, the conclusion of R-4 is vulnerable.

-13- 64

till the date of his re-instatement as directed in the order dated <sup>11</sup>11.12.1987 after deducting therefrom, the pay and allowances for the period from 11.12.1987 to 24.6.1988 but not the interest.

18. In the result, the RA is dismissed. Parties to bear their own costs.

Sd/-  
MEMBER (A) 24.6.1988

Sd/-  
MEMBER (J) 24.6.88

After we pronounced this order, Shri K.V. Laxmanachar, learned counsel for the applicant in RA, filed an application for stay and has also served a copy thereof on Shri Anandaramu, learned counsel for the respondents in RA. He has prayed in the application that the operation of the order dated 11.12.1987 in OA 569/87 be stayed for a period of three months from today to enable the applicants in RA to file SLP in the Supreme Court. Shri Anandaramu opposes the application. We, are however, satisfied that in the interests of justice, the operation of the order dated 11.12.1987 should be stayed for three months from today. ~~Consequently~~ Consequently, compliance with directions (i) and (iii) given in paragraph 17 supra shall stand stayed. We do not, however, consider it necessary to stay the operation of the direction (ii) in para 17 since it flows out of the order of this Tribunal dated 20.1.1988. The same shall, therefore, be complied with by the applicants in the R.A.

TRUE COPY

DEPUTY REGISTRAR (JDL) Sd/-  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
MEMBER (A) 24.6.1988

Sd/-  
MEMBER (J) 24.6.1988

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CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 8 FEB 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (S) 71 /88  
IN APPLICATION NO. 569/87(F) & RA 3/88  
W.P. NO (S) \_\_\_\_\_

Applicant (s)

Respondent (s)

Shri K. P. Muraléedhar  
To

V/s The Secretary, M/o Railways, New Delhi & 3 Ors

1. K. P. Muraléedhar  
S/o Shri N. P. Menon  
Tolahunse Village & P.O. - 577 514  
Davanagere Taluk  
Chitradurga District

2. Shri M. S. Anandaramu  
Advocate  
128, Cubbonpet Main Road  
Bangalore - 560 002

3. The Secretary  
Ministry of Railways  
Rail Bhavan  
New Delhi - 110 001

4. The General Manager  
Southern Railway  
Park Town  
Madras - 600 003

5. The Chief Operating Superintendent  
Southern Railway  
Park Town  
Madras - 600 003

6. The Divisional Railway Manager  
Southern Railway  
Mysore Division  
Mysore

7. Shri K. V. Lakshmanachar  
Railway Advocate  
No. 4, 5th Block  
Briand Square Police Quarters  
Mysore Road  
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/~~INTERIM~~/~~ORDER~~  
passed by this Tribunal in the above said C.P. (Civil) application(s) on 3-2-89.

Encl : As above

*[Signature]*  
DEPUTY REGISTRAR  
(JUDICIAL)

66

**In the Central Administrative  
Tribunal Bangalore Bench,  
Bangalore**

K. P. Muraleedhar

V/s

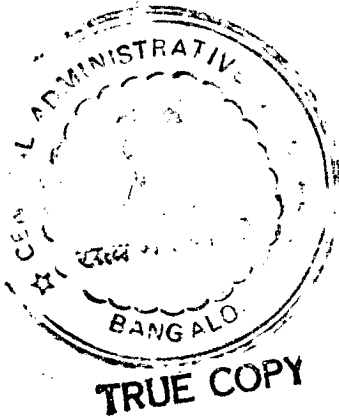
The Secretary, M/o Railways, New Delhi  
& 3 Ors

Order Sheet (contd)

M.S. Anandaramu

C.P.(Civil) No. 71/88

K.V. Lakshmanachar

Date	Office Notes	Orders of Tribunal
	 <p style="text-align: center;">TRUE COPY</p> <p style="text-align: center;">DEPUTY REGISTRAR (JDLT) CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE</p>	<p><u>KSP/LHAR</u> : 3.2.89.</p> <p>Petitioner by Shri M.S. Anandaramu. Respondents by Shri K.V. Lakshman Achar.</p> <p>In this petition made under section 17 of the Administrative Tribunals Act, 1985, and the Contempt of Courts Act, 1971, the petitioner has moved this Tribunal to punish the respondents for non-implementation of an order made in his favour on 11-12-1987 in application No.569/87, modified on 24-6-1988 in review application No.3/88.</p> <p>Shri Lakshmanachar files a memo annexing an authenticated copy of order dated 2-2-1989 passed by the Railway Administration directing reinstatement of the applicant. With this, the first part of the order directing reinstatement of the applicant stands complied.</p> <p>On the other part of the directions that still remained to be complied, Sri Lakshmanachar submits that the authorities will calculate the amounts and make available to him within a reasonable time as they are bound to do, as the Special Leave petition filed by the Railway Administration has been rejected by the Supreme Court on 16-1-1989. We have no doubt that the authorities will comply with all the outstanding matters. We <sup>accordingly</sup> <del>consider</del> <sup>propose</sup> grant time for complying with the outstanding matters till 31-3-1989 and drop these Contempt of Court proceedings.</p> <p>In the light of our above discussion, we drop the Contempt of Court proceedings, but in the circumstances of the case, we direct the parties to bear their own costs.</p>

Sd —

Sd —

VICE CHAIRMAN

MEMBER (A) 3.2.89

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 27 SEP 1991

MISCELLANEOUS PETITION  
NO. 58/91 IN

APPLICATION NO (X)

569

/ 87(F)

W.P. NO (S)

Applicant (s)

The Divisional Railway Manager,  
Southern Railway, Mysore & anr  
To


Respondent (s)

V/s Shri K.P. Muralidhar

1. The Divisional Railway Manager  
Southern Railway  
Mysore Division  
Mysore
2. The General Manager  
Southern Railway  
Park Town  
Madras - 600 003
3. Shri A.N. Venugopal  
Railway Advocate  
8/2, 1st Floor  
Opp : Bangalore Hospital  
R.V. Road  
Bangalore - 560 004

Subject : FORWARDING COPIES OF THE ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of the ORDER/~~STAY~~/  
~~INTERIM ORDER~~ passed by this Tribunal in the above said  
application(s) on 6-9-91.

  
for DEPUTY REGISTRAR  
(JUDICIAL)

**In the Central Administrative Tribunal  
Bangalore Bench,  
Bangalore**

M.P. 58/91 in  
O.A. 569/87(F)

The Divisional Railway Manager,  
Southern Railway, Mysore & anr

V/s Shri K.P. Muralidhar

ORDER SHEET (contd)

A.N. Venugopal

Date	Office Notes	Orders of Tribunal
		<p><u>PSHMA/SFRMJ</u></p> <p>6.9.1991</p> <p><u>ORDERS ON M.P.No.58/1991</u></p> <p>This M.P. filed by the petitioners herein who were the respondents in A No.569/87 disposed of by a Bench of this Tribunal by order dated 11.12.1987 has to be rejected without notice to the respondent herein.</p> <p>2. By way of this petition, the petitioners herein who were respondents 1 and 2 respectively in O.A.No.569/87 have sought for certain clarifications. The said O.A.No.569/87 was disposed of by a Bench of this Tribunal in December 1987 and a review application filed by the respondents therein in R.A.No.3 of 88 for reviewing the order passed in A No.569/87 also came to be disposed of by the same Bench which decided the original application by an order dated 24.6.1988. Now on 22.2.1991 this M.P. has been filed by two of the respondents in the O.A. seeking certain clarifications.</p>



6/9

P.T.O

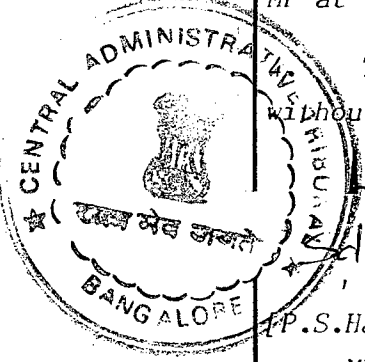
Date	Office Notes	Orders of Tribunal
		<p>3. This petition is filed under Section 22 of the Administrative Tribunals Act, 1985, read with Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987. In the petition it has been averred that the R.A.No.3/88 came to be disposed of with certain directions as per Annexure A-2 while the order passed in the O.A. is at Annexure A-1 by <del>order</del> dated 11.12.1987 and that in the implementation of the orders passed in the O.A. as well as in the R.A. and having regard to the provisions of Rule 5(4) of the Railway Servants (Discipline and Appeal) Rules there has ben some difficulty experienced by the respondents in regulating the period and hence this petition for clarification. It was submitted by Shri AN Venugopal for the petitioners herein that even an SLP filed against the orders passed by a Bench of this Tribunal in O.A.No.569/87 came to be dismissed. He submitted that the orders passed by this Tribunal have been implemented and in view of the provisions of Rule 5(4) of the Railway Servants (Discipline and Appeal) Rules if the intervening period is treated as deemed suspension in terms of the said rule, the respondent will be eligible to get Rs.41144 out of which Rs.16221 has already been paid to him and as such there is difficulty in regulating the said period for which the clarification has been sought in the present petition. We fail to see any reason for seeking clarification before this Tribunal when the order has been passed on the O.A. on 11.12.1987 which came to be reviewed in R.A.No.3/88 and where that R.A. was also</p>



(Contd)

**In the Central Administrative Tribunal  
Bangalore Bench,  
Bangalore**

**ORDER SHEET (contd)**

Date	Office Notes	Orders of Tribunal
		<p>disposed of on 24.6.1988 with certain directions and when the orders passed have been implemented. As can be seen from the order passed in R.A.No.3/88 produced at Annexure A-2 the Bench of this Tribunal which had passed the order in the original application No.569/87 has itself clarified the aspects and nothing requires to be clarified now after a lapse of more than 3 years and that too when the Hon'ble Supreme Court, as submitted on behalf of the petitioners herein, has also dismissed the SLP filed by the present petitioners against the orders passed by this Tribunal in O.A.No.569/87. Neither the provisions of Section 22 of the Act nor the provisions of Rule 24 of the CAT (Procedure) Rules 1987, can be called in aid of the petitioner to come forth with such an MP at this stage.</p> <p>This M.P. is accordingly rejected without notice to the respondent herein.</p> <p style="text-align: center;"><b>TRUE COPY</b></p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>[P.S.Habeeb Mohamed] MEMBER[A]</p> </div> <div style="text-align: center;"> <p>6/9/91 [SYED FAZLULLA RAZVI] MEMBER [J]</p> </div> </div> <div style="text-align: right; margin-top: 20px;"> <p><i>[Signature]</i> SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p> <p>27/9</p> </div>