

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 28 DEC 1988

APPLICATION NO. 800 / 87(F)

W.P. NO.

Applicant(s)

Shri M.C. Mittalmani
To

v/s

The Divisional Railway Manager, South Central Rly,
Hubli & another

1. Shri M.C. Mittalmani
No. 4829, Kurattipet
Bengaluru Belagavi
Gadag - 582 102
2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross, Nehru Nagar
Bangalore - 560 020
3. The Divisional Railway Manager
South Central Railway
Hubli (Dharwad District)

4. The Senior Divisional Engineer (East)
South Central Railway
Hubli (Dharwad District)

5. Shri M. Srerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~EX-14-12-88~~ ORDER
passed by this Tribunal in the above said application(s) on 14-12-88.

Office
SECTION OFFICER
~~EX-14-12-88~~
(JUDICIAL)

Encl : As above

d/c

*4/2/88
K. M. B.
14-12-88*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE FOURTEENTH DAY OF DECEMBER, 1988.

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

APPLICATION NO.800/1987

Shri M.C. Hittalmani
Aged 52 years
Head Clerk, PWI/o/South
Central Railway
Hole-Alur
DHARWAD DISTRICT .. Applicant
(Shri Suresh Joshi, Advocate)

Vs.

1. The Divisional Railway Manager
South Central Railway
HUBLI.

2. The Divisional Engineer-II
Now called Senior Divisional
Engineer (East)
South Central Railway
HUBLI. .. Respondent

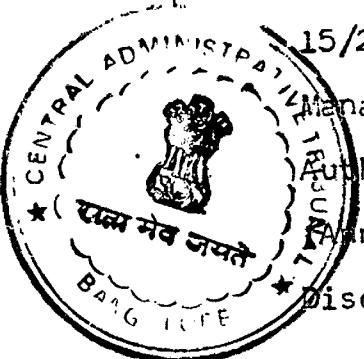
(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing
before the Tribunal today, Hon'ble Vice Chairman, made
the following:

ORDER

In this application made under Section 19
of the Administrative Tribunals Act, 1985 (the Act), the
applicant has challenged Order No. H/p.227/II/LHAR dated
15/21.7.1987 (Annexure G) of the Divisional Railway
Manager, South Central Railway, Hubli and Appellate
Authority (AA) and Order No. H/p/227/HH/HLAR dated 24.11.83
(Annexure C) of the Divisional Engineer, Hubli and
Disciplinary Authority (DA).

2. At the material time viz., from 19.1.1982
to 18.2.1982 the applicant was working as Senior Clerk in



the office of Permanent Way Inspector (PWI) Holealur of Hubli Division. While he was so working, on the instructions of PWI, Holealur, applicant also looked after the duties of another Senior Clerk who was on leave in the same office. In the discharge of his additional duties, the applicant prepared a pay bill of class IV staff from 19.1.1982 to 18.2.1982, which revealed certain mistakes or errors. On those mistakes and errors in the said pay bill the DA in his Memorandum No. H/P.227/11/HLAR dated 2.4.1982 (Annexure-H) initiated disciplinary proceedings on the applicant for imposition of a major penalty under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 (Rules) on the following charge.

"That the said Shri M.C. Hittalmani while functioning as Sr. Clerk in PWI's office, HLAR during January-February 1982 committed serious misconduct in claiming the wages of Class IV staff under PWI/HLAR for the wage period 19.1.1982 to 18.2.1982 before closing and signing the muster by the PWI and altering the muster sheets. He got the pay sheet thus prepared signed by PWI/Grade III."



As the applicant denied this charge a regular inquiry was held by an Inquiry Officer (IO) appointed for the purpose who submitted his report to the DA on 16.8.1982 holding the applicant guilty of the charge.

of the IO and the evidence on record concurring with the findings of the IO, the DA by his order dated 24.11.1982 (Annexure-C) imposed on the applicant the penalty of reduction of pay from Rs 464 to Rs 428 in the time scale of pay of Rs 330-560 for a period of two years with recurring effect or cumulative effect.

4. Aggrieved by the order of the DA, the applicant filed an appeal before the AA who in pursuance of an order of remand made by this Tribunal in A. No.1096/86 (Annexure-F) had dismissed the said appeal on 15/21.7.1987. (Annexure-G) Hence, this application.

5. In justification of the impugned orders, the respondents have filed their reply and have produced their records.

6. Shri Suresh Joshi, learned counsel for the applicant contends that on the trivial charge levelled, the findings of the AA, DA and IO were either based on 'no evidence' or were such that no reasonable man would have ever reached those conclusions on the evidence, if any and therefore the impugned orders were illegal and unsustainable.

7. Shri M. Sreerangaiah, learned counsel for the respondents, refuting the contentions of Shri Joshi contends that the findings of the authorities were based on evidence and this Tribunal cannot reappreciate the evidence on record and reach a different conclusion.

8. We have carefully perused the orders of the AA and DA and the report of IO and the material evidence on record. On such an examination we cannot



hold that the findings of the AA, DA and IO are based on no evidence or are so perverse that no reasonable man would have ever reached those conclusions at all. On this it follows as pointed out in more than one case that in exercise of our powers of judicial review we cannot reappreciate the evidence on record and come to different conclusions than the one reached by the authorities. On this we uphold the findings of the authorities on the guilt of the applicant.

9. Shri Joshi contends that even on upholding the findings, the imposition of penalty of reduction of pay for a period of two years with cumulative effect was too disproportionate, unjustified and calls for substantial modification by us.

10. Shri M. Sreerangaiah vehemently opposes any modification in the punishment by the authorities.

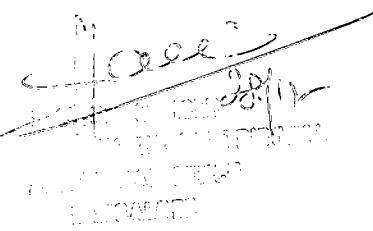
11. The charge really levelled against the applicant was that in the preparation of pay bill he had committed certain avoidable mistakes to which PWI had also made his own contribution, on which aspect it is unnecessary for us to dwell. The integrity of the applicant was not in doubt. On these facts and circumstances the penalty of reduction of pay was too disproportionate and unjustified and therefore calls for substantial modification. We are of the view that the ends of justice would be met by imposing on the applicant the minor penalty



12. In the course of the tortuous proceedings the applicant has been promoted as Head Clerk from 3.9.1985. On this it is obvious that the punishment of 'Censure' cannot be held against the applicant either in that promotion or other promotions that may arise in future also.

13. As we are altering the punishment the authorities are bound to regulate the payments already made to the applicant in terms of our order.

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



- (i) We uphold the findings of guilt recorded against the applicant and dismiss this application to that extent.
- (ii) We allow this application in part, modify the impugned orders of the AA & DA and impose on the applicant only the minor punishment of 'Censure' and direct the respondents to regulate the payments to the applicant in terms of this order without any interest with all such expedition as is possible in the circumstances of the case and in any event within a period of two months from the date of receipt of this order.
- (iii) We direct the respondents not to reopen the promotion already accorded to the applicant on 3.9.1985.

15. The 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

Sd/-
14-XI-1988
MEMBER (A)