

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : **13 JUN 1988**

APPLICATION NO.

878

/ 87(F)

W.P. NO.

Applicant(s)

Shri P.C. Hanumanthu

To

Respondent(s)

V/s

The Divisional Operating Supdt. SC Railway,
Hubli & 3 Ors

1. Shri P.C. Hanumanthu
S/o Shri P. Anjaneyappa
Chelukyanagar
B.G.S. Water Tank
Gadag Road
Hubli
Dharwad District
2. The Divisional Operating Superintendent
South Central Railway
Hubli
Dharwad District
3. The Chief Operating Superintendent
South Central Railway
Secunderabad (A.P.)
4. The General Manager
South Central Railway
Rail Nilayam
Secunderabad (A.P.)
5. The Divisional Railway Manager
South Central Railway
Hubli
Dharwad District
6. 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 the copy of ORDER/~~SPA~~/ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on **7-6-88**

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 7th DAY OF JUNE, 1988

Present : Hon'ble Sri Justice K.S. Puttaswamy

Vice-chairman

Hon'ble Sri P. Srinivasan

Member (A)

APPLICATION No. 878/87.

P.C. Hanumanthu,
Station Master,
South Central Railway,
Hubli Unkal Station. ...

Applicant

vs.

1. Divisional Operating Suptdt.
S.C. Railway, Hubli.

2. Chief Operating Supdt.
S.C. Railway, Secunderabad.

3. The General Manager,
S.C. Railway, Secunderabad.

4. Divisional Railway Manager,
S.C. Railway, Hubli. ...

Respondents

(Sri K.V. Lakshmanachar ... Advocate)

This application having come up for hearing today,
Hon'ble Sri P. Srinivasan, Member (A) made the following :

ORDER

This application has, been listed for hearing today.
When it was called up, neither the applicant nor his counsel
were present. On scrutinising the order sheet, we notice that
even earlier on many occasions, the applicant has not been
present when the case was fixed for hearing. On 6.4.1988,
in the presence of the applicant, the application was posted
for hearing to 20.5.1988, but on that day, the applicant re-
mained absent, and the case was adjourned to today to give him
an opportunity to be present. But even today, inspite of our
waiting for a long time, the applicant has not appeared. In
the circumstances, we have no choice but to proceed to deal



P. Srinivasan

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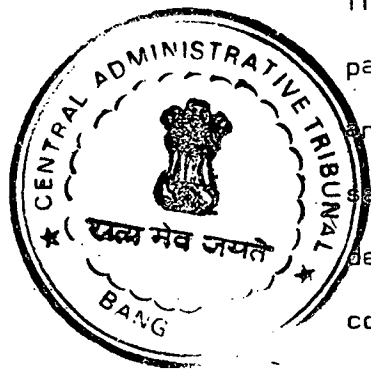
with the application on merits with the assistance of Sri K.V.Laxmanachar, learned counsel for the respondents.

2. We have perused the application and the records of the departmental enquiry initiated against the applicant. The applicant was charged with failure "to personally ensure correct setting, clamping and padlocking of down point No.8/8 and 9/8 for the 1st loopline for the reception of Train No.DH-8(IM) passenger on Road No.1, but deputed instead the station porter/Unkal Sri A.H.Hameed for setting the route and clamping and padlocking the above points of Unkal station on 27.7.1985. Thus, he violated SR.3 69(1) of G &SR." The second charge was that he did not secure the padlock keys in his possession before authorising the driver of Train No.DH-8 to pass the Down Home signal, thus again violating SR. 3.38(8)(ii) and (iii) of G & SR. The chargesheet also narrated that as a result of the aforesaid actions of the applicant, Tr.No.DH-8 Down Passenger arrived on the track, which was already occupied by a Goods Train on 27.7.1985. The applicant was Rest-Giving Station Master, Hubli, when the above incident occurred. After serving the chargesheet on the applicant, an Enquiry Officer (EO) was appointed, who gave a report holding the applicant guilty of the charges levelled against him. Agreeing with this report, the disciplinary authority (DA) by order dated 29.11.1985, imposed the penalty of compulsory retirement on the applicant, w.e.f. 30.11.1985. An appeal filed by the applicant against this order was rejected by the appellate authority (AA) on 18.2.1986. The applicant challenged both these orders in A.No.1834/86 filed before this Tribunal. This Tribunal in



an order dated 9.6.1987 to which one of us was a party (KSPVC), set aside the order of the AA and directed him to pass a speaking order after affording an opportunity to the applicant to be heard. In compliance with that order, the AA gave the applicant a hearing and has passed a detailed order on 1.9.1987 confirming the penalty of compulsory retirement. The present application is directed against this order as well as the original order of the DA imposing the punishment on the applicant.

3. We have perused the application and have heard Sri Laxmanachar for the respondents. We have also perused the records of the departmental enquiry. We find that the applicant had in fact admitted that he had deputed one Abdul Hameed for setting, clamping and padlocking of locks for Train No. DH-8. He has, no doubt, explained why he had to do that. But the very fact that he delegated his own duty to a porter was a serious offence and could have caused a serious railway accident involving the lives of people. The importance of taking all steps to ensure safety of passengers who travel by the railways cannot be overstressed and any act of commission or omission which endangers their safety has to be viewed seriously. In view of this, the dereliction of duty of the applicant in this case, which could have caused a bad railway accident, deserved serious punishment. We are satisfied that the punishment of compulsory retirement is commensurate with the seriousness of the offence committed by the applicant. We, therefore, see no reason to interfere with the orders of the DA and the AA.



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4. In the result, we dismiss the application but

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

VICE CHAIRMAN

MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 18-6-87

APPLICATION NO 1834 /86(F)

W.P. NO _____

Applicant

Shri P.C. Hanumanthu

V/s The Divisional Operating Supdt
SC Railway, Hubli & 3 Ors

To

1. Shri P.C. Hanumanthu
Chalukyanagar
R.G.S. Water Tank
Gadag Road
Hubli

2. Shri Suresh S. Joshi
Advocate
No. 15, III Cross
Nehru Nagar
Bangalore - 560 020

3. The Divisional Operating Superintendent
South Central Railway, Hubli

4. The Chief Operating Supdt.
South Central Railway
Secunderabad (A.P.)

5. The General Manager
South Central Railway
Secunderabad

6. The Divisional Railway Manager
South Central Railway
Hubli

7. Shri K.V. Lakshmanachar
Advocate
No. 4, 5th Block, Briand Square

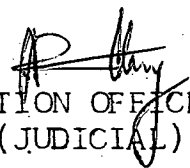
Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Police Qrs
Mysore Road
Bangalore - 2

Please find enclosed herewith the copy of ORDER/~~XXXX~~/

~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 9-6-87.

Encl : as above


SECTION OFFICER
(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 9TH DAY OF JUNE, 1987.

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

APPLICATION NO.1834/86

Shri P.C. Hanumanthu,
aged 50 Years,
S/o P. Anjaneyappa,
Station Master,
South Central Railway,
Hubli Unkal Station. Applicant

(Shri Suresh S. Joshi, Advocate)

v.

1. Divisional Operating
Superintendent,
S.C. Railway, Hubli.
2. Chief Operating
Superintendent,
S.C. Railway,
Secunderabad.
3. The General Manager,
S.C. Railway,
Secunderabad.
4. Divisional Railway Manager,
S.C. Railway,
Hubli. Respondents.

(Shri K.V. Lakshmanachar, Advocate)

This application having come up for hearing
to-day, Vice-chairman made the following.

ORDER

In this application made under Section 19 of
the Administrative Tribunals Act of 1985 ('the Act'),
the applicant has challenged order No.H/P.94/III/TTO
dated 11.7.1986 of the Chief Operating Superintendent,



South Central Railway, Hubli (COS) (Annexure-A3), the order No.H/P-94/620 dated 18.2.1936 of the Assistant Personnel Officer (T) South Central Railway, Hubli ('DRM') (Annexure-A2) and the order No.H/T.5/E.3/1/85-86/ASM/DAR dated 29.1.1985 of the Divisional Operating Superintendent, Hubli ('DOS') (Annexure-A1). In a disciplinary proceeding instituted under the Railway Servants (Discipline and Appeal) Rules, 1968 ('Rules') the DOS passed an order dated 29.1.1985) inflicting the penalty of compulsory retirement from service on the applicant. Aggrieved by the said order, the applicant filed an appeal before the DRM who by his order dated 18.2.1936 affirmed the same. Aggrieved by the same, the applicant filed a revision before the COS who by his order dated 11.7.1936 has dismissed the same.

2. Among others, the applicant has urged that the order made by the appellate authority in his first appeal is not a speaking order.

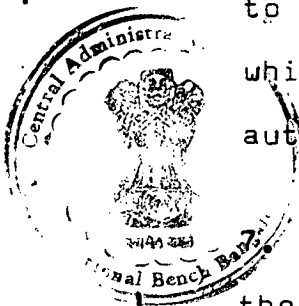
3. Sri Suresh S. Joshi, learned counsel for the petitioner has reiterated the case of the applicant before us.

4. Sri K.V. Lakshmanachar, learned counsel for the respondents sought to support the order of the authorities.



5. Against the imposition of a major penalty of compulsory retirement from service, the applicant filed an appeal before the DRM. An appeal lies before the DRM both on questions of fact and law. But, the DRM without examining any of the material contentions urged by the applicant both on questions of fact and law and the requirement of Rule 22(2) of the Rules has dismissed the appeal with a brief and laconic order. In RAMCHANDER Vs UNION OF INDIA (AIR 1936 SC 1173) the Supreme Court examining a similar order has indicated the necessity to make a speaking order after affording an opportunity of hearing. Without any doubt the order made by the DRM is in contravention of the Rules and is not a speaking order. In this view, the order made by the DRM is liable to be quashed and a direction issued to him to redetermine the matter afresh. When once we hold that the order made by the appellate authority is not a speaking order, we have necessarily to quash the order made by the revising authority also.

6. As the Appellate Authority has not decided the appeal as required by law, it is not necessary for us to examine the order of the disciplinary authority which has necessarily to be done by the appellate authority in the first instance.



In the light of our above discussion, we quash the orders of the CCS dated 11.7.1986 (Annexure-A3) and

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- 4 -

the order of DRM dated 18.2.1986 (Annexure-A2) and direct the Divisional Railway Manager, South Central Railway, Hubli - respondent-4 to restore the appeal filed by the applicant to its original file and re-determine the same after affording him an opportunity of oral hearing if he proposes to avail ^{of it} the same in accordance with law and the observations made in this order with all such expedition as is possible in the circumstances of the case and in any event not later than 3 months from the date of the receipt of the order of this Tribunal.



8. 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 *g/p*

Sd -

Member (AT) 9.6.87

- True copy -

np/Mrv.



R. Thy 18/6/87
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 8 AUG 1988

REVIEW APPLICATION NO. 65/88
IN APPLICATION NO. 878/87(F)
U.P. NO.

Applicant(s)

Shri P.C. Hanumanthu

To

Respondent(s)

V/s

The Divisional Operating Supdt. South Central Rly,
Hubli & 3 Ors

- | | |
|---|--|
| <p>1. Shri P.C. Hanumanthu
S/o Shri P. Anjanayappa
Chalukyanagar
Near R.G.S. Water Tank
Gadag Road
Hubli - 580 020</p> <p>2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross, Nehru Nagar
Bangalore - 560 020</p> <p>3. The Divisional Operating Superintendent
South Central Railway
Hubli
Dharwad District</p> <p>4. The Chief Operating Superintendent
South Central Railway
Secunderabad (Andhra Pradesh)</p> | <p>5. The General Manager
South Central Railway
Rail Nilayam
Secunderabad (Andhra Pradesh)</p> <p>6. The Divisional Railway Manager
South Central Railway
Hubli
Dharwar District</p> <p>7. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Square Police Quarters
Mysore Road
Bangalore - 560 002</p> |
|---|--|

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 ^{Review} application(s) on 1-8-88.

Encl : As above

B.D. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 1st DAY OF AUGUST, 1988

Present : Hon'ble Sri Justice K.S.Puttaswamy Vice Chairman

Hon'ble Sri P.Srinivasan Member (A)

REVIEW APPLICATION No. 65/88.

P.C.Hanumanthu,
Station Master,
South Central Railway,
Hubli Unkal Station. ...

Applicant

(Sri Suresh S Joshi ... Advocate)

vs.

1. Divisional Operating Supdt.,
S.C.Rly, Hubli.

2. Chief Operations Supdt.,
S.C.Rly, Secunderabad.

3. The General Manager,
S.C.Rly, Secunderabad.

4. Divisional Rly. Manager,
S.C.Rly, Hubli. ...

Respondents

(Sri K.V.Laxmanachar ... Advocate)

This application has come up before the Tribunal today.

Hon'ble Sri P.Srinivasan, Member (A) made the following :

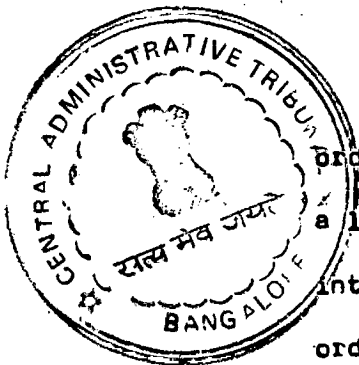
O R D E R

By this R.A., the applicant wants us to review our order dated 7.6.1988 in A.No.878/87. He has also addressed a letter dated 17.6.1988 which has been treated as an interlocutory application and numbered as I.A.No.1. This order will dispose of both R.A.No.65/88 and IA No.1.

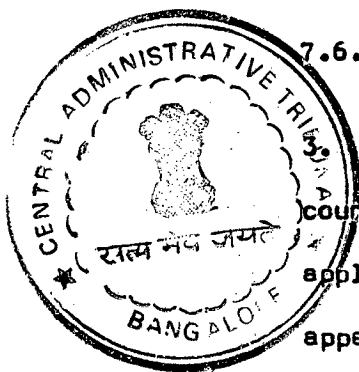
2. In A.No.878/87 the applicant challenged an order imposing the penalty of compulsory retirement on him. When

P. Srinivasan

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the application was fixed for final hearing on 7.6.1988 the applicant and his counsel were absent. Noticing that the applicant had been absent even on an earlier date, we proceeded to deal with the application on merits with the assistance of learned counsel for Respondents, Shri K.V.Lakshmanachar. After hearing Shri Lakshmanachar and after perusing the application and the records of the Departmental Inquiry we felt that we should not interfere with the impugned order of punishment and passed an order accordingly dismissing the application. Thereafter by his letter dated 17.6.1988, the applicant, in effect, requested that the application be restored to file and disposed of after hearing him : he blamed his advocate for his failure to attend on the date the application was fixed for hearing. In the Review Application, the applicant submits that certain factors which could have been brought to the attention of this Tribunal when the application was heard went unmentioned because the application was heard in his absence. He also explained that his counsel had, by mistake, noted the date of hearing as 9.6.1988 and that was why he could not attend on 7.6.1988.



We thought it appropriate to hear the learned counsel for the applicant on the merits of the original application, since he had urged that his failure to appear on 7.6.1988 was due to a mistaken impression that the application was to be heard only on 9.6.1988. The applicant who was also present in Court stated before us that inspite of what he had written in his letter dated

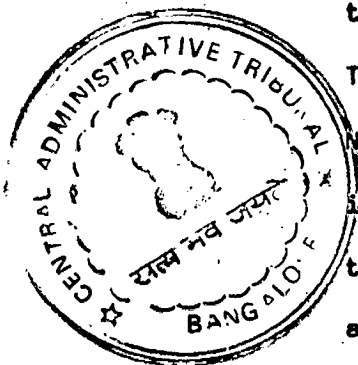
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17.6.1988, he had full confidence in his counsel Shri Suresh S Joshi and that Shri Joshi would present his case. Accordingly we heard Shri Suresh S Joshi for the applicant and Shri K.V.Lakshmanachar for the Respondents.

4. Shri Joshi submitted that the charge in respect of which the applicant was punished was that he had not personally ensured the correct setting, clamping and padlocking of down point No.18/B and 9/B for the reception of a passenger train on road No.1 at Unkal station of which the applicant was the Station Master on duty at the time. It was further alleged in the charge sheet that because of the applicant's failure to personally set the track on which the incoming passenger train was to be received, the said train actually came in on track No.3 where a goods train was already stationed but there was no accident because the incoming train stopped before reaching the station. Shri Joshi submitted that the applicant had in fact himself set the clamps and the track (track No.1) on which the passenger train was to be received and had thereafter sent the porter Hamid to pilot the incoming passenger train to the station because the electric signal system had failed. The porter had however wrongly reset the rails to track No.3 and piloted the train on that track, though he stopped it well away from the station avoiding any accident with the goods train. Therefore, the applicant had acted with a sense of responsibility and should not have been punished.

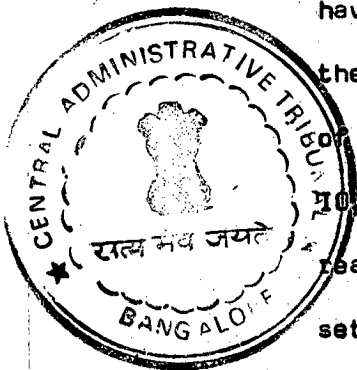
5. Shri K.V.Lakshmanachar refuted the contention of Shri Joshi. Drawing attention to the records of the inquiry, he pointed out that the applicant had himself admitted in his statement before the Inquiry Officer that he had not

P. S. Joshi



personally set the track for the arrival of the passenger train but had deputed the porter Hamid to the spot to do so. This was the personal responsibility of the Station Master and he should not have delegated the task to the porter. It was merciful that no accident took place but the mistake committed by the applicant as a result of which Shri Hamid set the track on road No.3 was potentially fraught with danger as the incoming train could well have smashed into the goods train which was already located on road No.3. Merely because no accident had occurred, the applicant could not be absolved of the charge levelled against him. In view of the potential danger the mistake was a serious one meriting the punishment of compulsory retirement.

6. We have given careful thought to submissions on both sides. We are unable to accept Shri Joshi's contention that the applicant personally supervised the setting of the points, clamping, setting and padlocking to ensure that the incoming passenger train came on track No.1. We have perused again, as we did even on the earlier occasion, the statement of the applicant before the IO and the report of the inquiry proceedings. In his statement before the IO, the applicant unequivocally admitted that, for one reason or the other, he could not proceed to the spot to set the track for the reception of the incoming passenger train and that he ^{had deputed} deputed Abdul Hamid with two clamps to do the job. Safety Rule No.3.69 clearly provides that the Station Master shall be responsible for satisfying himself by



P. S. [Signature]

personal inspection that points are correctly set, clamped and padlocked before authorising movement of any train over ^{by}

^{by} them. As we have pointed out in our earlier order this was a precaution which was vital to the safety and lives of the passengers travelling on the railway and the applicant admitted before the ID : "I have failed to ensure Personally." In the face of this we are unable to accept a different version at this stage. It is, therefore, a concluded fact that the applicant did not personally ensure that the track was properly set and that as a result the incoming passenger train moved on to a wrong track. We see no justification for reviewing our earlier order. If what has been urged before us now had been put forth when the application was originally heard, we are quite sure that our decision would have been the same. We are unable to accept the contention of Shri Joshi that the error committed by the applicant was a minor one for which only a minor penalty should have been imposed. As already been pointed out it was just providential that no collision of trains took place, though it was a potentially dangerous situation which could have resulted in tragedy.

7. Shri Joshi submitted that the porter, Hamid, who was also proceeded against, was let off while the applicant was punished. We have seen the report of the Inquiry Officer in regard to Hamid. We find that the Inquiry Officer observed that being an uneducated person, Hamid could not be expected to carry out the job entrusted to him in the critical situation caused ^{by the} failure of the

P. Joshi



signal system. Those considerations do not exist here.

8. Shri Joshi raised another objection viz. that the rank of the Inquiry Officer was lower than that of the witnesses who were examined in the inquiry. We find no merit in this objection because the relative ranks of the IO and the witnesses has no relevance to the validity of the inquiry.

9. In view of what we have stated above we see no merit in the application for review. The request for restoration of the application and for giving ^{an opportunity of being heard} the application also does not survive any longer as we have actually heard counsel on both sides ^{on} as the merits of the original application today.

10. In the result both the review application and IA No.1 are rejected. Parties to bear their own costs.



Sd/-
VICE CHAIRMAN
dms/an.
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Sd/-
MEMBER (A)

DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE