

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 NOV 1988

APPLICATION NO. 1152 / 88(F)

W.P. NO. _____

Applicant(s)

Shri K.K. Vasukuttan Nair
To

Respondent(s)

V/s The Divisional Railway Manager, Southern Rly,
Mysore & another

1. Shri K.K. Vasukuttan Nair
Muthickerunkal House
Panayanpala
Nadungadapally - P.O.
Kerala - 686 545
2. Shri K. Ramesh Rao
Advocate
No. 42, 2nd Floor, Sanjeevappa Layout
Jai Bharath Nagar
M.S. Nagar Post
Bangalore - 560 033
3. The Divisional Railway Manager
Southern Railway
Mysore Division
Mysore

4. The Divisional Electrical Engineer
Southern Railway
Mysore Division
Mysore
5. Shri K.V. Lakshmenachar
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 ~~/8544/~~ ~~XXXXXX/XXXXXX~~
passed by this Tribunal in the above said application(x) on 9-11-88.

SECTION OFFICER

XXXXXX/XXXXXX/XXXXXX

(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 9th DAY OF NOVEMBER, 1988

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

Vice Chairman

Hon'ble Sri L.H.A.Rego

Member (A)

Application No. 1152/1988(F).

K.K.Vasukuttan Nair,
O/o the Divisional Electrical
Engineer, Southern Railway,
Mysore.

...

Applicant

(Sri K.Ramesh Rao

...

Advocate)

vs.

1. Ram kumar,
Divisional Railway Manager,
Southern Railway,
Mysore.

2. S.Rangaswamy,
Divisional Electrical Engineer,
Southern Railway,
Mysore.

...

Respondents

(Sri K.V.Laxmanachar

...

Advocate)

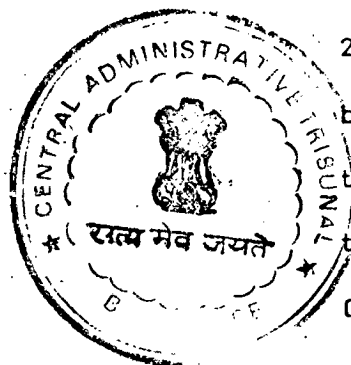
This application having come up before the Tribunal
today, Hon'ble Vice Chairman made the following :

O R D E R

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. Sri K.K.Vasukuttan Nair, the applicant before us,
born on 17.7.1929 joined service on 13.3.1953 as a clerk in
the Indian Railways and made career advances from time to time
the details of which are not necessary to notice for this case.

On 24.6.1987, the competent officer permitted the applicant to
retire from service from 31.7.1987 on his attaining superannuation
as Office Superintendent. But before that, the Divisional
Electrical Engineer, Mysore and Disciplinary Authority (DA) in



his Memorandum No. Y/E 150/III/7/kkvn dated 9.7.1987 (Annexure II), initiated disciplinary proceedings against the applicant under the Railway Servants (Discipline and Appeal) Rules, 1968 (Rules) on the charge appended to the same, which reads thus :

That Sri K.K.Vasukuttan Nair, while functioning as Office Supdt., Divisional Electrical Engineer's Office, Mysore has committed misconduct in that he was in occupation of Railway Qrs., No.32/B (Type I) at the Loco Colony, Mysore, unauthorisedly. This Qrs. has been allotted in favour of Sri Fiaz Ahamed, Lineman, ELC/Works/Office/Mysore. As per Civil. Personnel Officer's Note No.Y/P 555/MYS/87/Part dated 8.7.1987 this has been occupied by Sri K.K.Vasukuttan Nair, which is unauthorised.

Thus Sri K.K.Vasukuttan Nair, has acted in a manner unbecoming of a railway servant and thereby contravened Rule 3(1)(iii) of Railway Services (Conduct) Rules, 1966".

On this the applicant has filed his statement of defence denying the same and inter-alia asserting that the same had been initiated only to wreck vengeance against him.

3. In pursuance of the order dated 24.6.1987, of the competent officer, the applicant had retired from service from 31.7.1987 and is no longer in service from that date. But notwithstanding that all the pensionary and other retirement benefits due thereon to the applicant were not settled with such expedition expected thereto and therefore he naturally made representations. On the pension and all other retirement benefits, except the Death-cum-Retirement Gratuity/(DCRG), have been settled. But the DCRG, due had not been paid on ground that the disciplinary proceedings initiated against him on 9.7.1987 was pending. Hence this application for appropriate reliefs.

4. In justification of the disciplinary proceedings initiated and still continued and the withholding of the DCRG, the respondents have filed their reply and have produced their records.

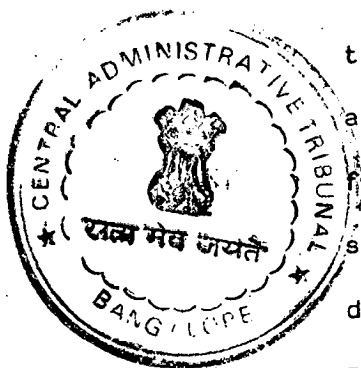
5. Sri K.Ramesh Rao, learned counsel, for the applicant contends that the initiation and the continuance of disciplinary proceedings on a false and trumped up charge was totally unjustified and therefore we should annul them and direct the respondents to make payment of the DCRG with interest thereon.

6. Sri K.V.Laxmanachar, learned counsel for the respondents sought to support the continuance of disciplinary proceedings and the withholding of the DCRG due thereon to the applicant.

7. We have earlier reproduced the charge levelled against the applicant and the case pleaded by him thereto. On an examination of all the records, we are inclined to hold that there is some truth in the case urged by him. But for this case we will however assume that there is truth in the charge levelled against the applicant and examine this case on that basis only.

8. At the highest, the charge levelled against the applicant even if true, does not at all involve a lapse of moral turpitude and loss of revenue to the Railway Administration. On this itself, the DA having permitted the applicant to retire from service from 31.7.1987 should have gracefully dropped the disciplinary proceedings against him and settled all the pensionary and other retiral benefits legitimately due to him. Whatever be the justification for the initiation of disciplinary proceedings against the applicant when he was in service, there was no justification whatsoever for their continuance on his retirement from service. On this short ground we consider it proper to annul the disciplinary proceedings against the applicant and direct the respondents to settle the due to him.

9. Sri Ramesh Rao contends that the respondents, who had illegally and improperly withheld the payment of pensionary and other terminal benefits except DCRG till 14.6.1988 and the DCRG



so far, were liable to pay reasonable interests thereon till their payments to the applicant.

10. Sri Achar opposes the payment of any interests claimed by the applicant.

11. We are not very happy with the way the authorities had dealt with the matter. But still, we are of the view that the facts and circumstances, do not justify us to award interests on any of the amount already paid or still to be paid to the applicant.

12. In the light of our above discussions, we make the following orders and directions :-

i) We quash the Memorandum No.Y/E 150/III/7/KKUN dated 9.7.1987 (Annexure II) initiated and continued by the DA against the applicant and direct that the same shall not be continued against him.

ii) We direct the respondents to make payment of the DCRG amount due to the applicant with all such expedition as is possible in the circumstances of the case and in any event within a period of one month from the date of this order.

13. Application is disposed of on the above terms. But in the circumstances of the above case, we direct the parties to bear their own costs.

Sd/-

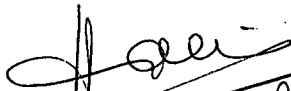
VICE CHAIRMAN

Sd/-

MEMBER (A)

an.

TRUE COPY


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

