

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 19TH APRIL, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. P. Srinivasan,

.. Member(A).

APPLICATION NUMBER 606 OF 1988.

M.F. Shiggavi,
S/o Faridsab Shiggavi,
Kalasi, General Stores Depot,
S.C. Railway, Hubli, Dharwad Dist.

.. Applicant.

(By Sri G.A. Nadgir, Advocate)

v.

1. The Assistant Controller of Stores,
General Stores,
South Central Railway, Hubli.
2. District Controller of Stores,
General Stores Depot,
South Central Railway, Hubli.
3. The Chief Personnel Officer,
Office of the General Manager,
South Central Railway, Secunderabad.

.. Respondents.

(By Sri M. Sreerangaiah, Advocate).

This application having come up for hearing, Vice-Chairman made the following:

ORDER

Applicant by Sri G.A. Nadgir.

2. Admit.

3. As this case has come up before us for the second time, at our direction Sri M. Sreerangaiah, learned Railway Advocate who had represented the respondents on the earlier occasion also takes notice for them and prays for six weeks time to contact his clients, file their reply and argue the matter.

4. We have perused the order made by the Appellate Authority ('AA') in pursuance of our earlier order on the second occasion.



We are satisfied that this is not a fit case in which we should grant any further time to the respondents. We, therefore, reject the prayer of Sri Sreerangaiah for time as that will not make any difference and proceed with the hearing of the case and its disposal on merits.

5. Against the order made by the Disciplinary Authority ('DA') under the Railway Servants (Discipline and Appeal) Rules, 1968 ('Rules') the applicant filed an appeal before the AA, who dismissed the same on 14-6-1982 which was unsuccessfully challenged by him in a revision before the Revising Authority ('RA').

6. The applicant challenged the said orders of the RA and AA in Application - No.1967 of 1986 before this Tribunal. On 3-3-1987 this Tribunal disposed of the same with a direction to the AA to dispose of the appeal of the applicant afresh. In pursuance of the said order, the AA restored the appeal of the applicant to its original file and on 12-8-1987 dismissed the same. The applicant challenged this order in a revision before the RA who on 29-2-1988 had dismissed the same. The applicant has again challenged those orders in this application.

6. Sri Nadgir contends that the orders made by the RA and the AA on the second occasion also suffer from the very infirmity noticed by this Tribunal in A.No.1967 of 1986 and call for our interference.

8. Sri Sreerangaiah valiently sought to support the impugned orders.

9. The AA had dismissed the appeal in these words:

Sub: Application No.1967 of 1986(F) filed by Shri M.F.Shiggavi, Ex.Khalasi of Stores Depot, Hubli before CAT/Bangalore and disposal of the DAR case as per the direction given by the Tribunal in its order dated 3-3-1987.

Ref: This office letter No.P8/P.227/I/UBL/11/78 /MFS/3198 of 30-7/1-8-1987.



In terms of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1968, the undersigned has disposed of the appeal after considering the matter afresh and after affording a personal hearing to you on 11.8.1987 in the office of District Controller of Stores (General Stores Depot) Hubli and passed orders as under:-

Speaking order

"I have gone through the Appeal submitted by Shri M.F.Shiggavi, T.No.1 Ex.Khalasi of General Stores Depot, Hubli, I find from the record that the charge of theft levelled against Shri M.F.Shiggavi is conclusively proved and also I find no substantial material in each para of his appeal. I see no reason to modify the decision of his having been removed from service"

Copy of personal hearing is enclosed.

You are advised that if you have got any representation to make against the orders of the Appellate Authority to the Revising Authority. You can do so in pursuance of the Tribunal directive.

Please note and acknowledge."

The RA reproducing this order had upheld the same in these words:

2. Accordingly the penalty of removal from service, imposed by ACOs/GSD/UBL, the Disciplinary Authority, and which was upheld by DCOs/UBL, as Appellate Authority, is hereby confirmed.

Both these orders are laconic and mechanical and not speaking orders. Both of them suffer from every one of the infirmities noticed by the Supreme Court in RAM CHANDER v. UNION OF INDIA (AIR 1986 SC 1173) followed in our order made on 3-3-1987. We

are bound to say that the order of the AA on the second occasion is only a repetition of his earlier order, but in different words.

10. In Ram Chander's case, the Supreme Court observed thus:

To say the least, this is just a mechanical reproduction of the phraseology of Rule 22(2) of the Railway Servants Rules without any attempt on the part of the Railway Board either to marshal the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not. There is also no indication that the Railway Board applied its mind as to whether the act of misconduct with which the appellant was charged together with the attendant circumstances and the past record of the appellant were such that he should have been visited with the extreme penalty of removal from service for a single lapse in a span of 24 years of service. Dismissal or



or removal from service is a matter of grave concern to a civil servant who after such a long period of service, may not deserve such a harsh punishment. There being non-compliance with the requirements of Rule 22(2) of the Railway Servants Rules, the impugned order passed by the Railway Board is liable to be set aside."

These observations govern the orders of the RA and the AA and, therefore, they call for our interference without examining the other questions.

11. In the light of our above discussion, we quash the impugned orders of the RA and AA (Annexures G and D) and direct the Appellate Authority to restore the appeal of the applicant to its original file and dispose of the same afresh in accordance with law and the observations made by the Supreme Court in Ram Chander's case, this order and our earlier order with all such expedition as is possible in the circumstances of the case but not later than three months from the date of receipt of this order. We hope and trust that the AA will not commit the same mistake he has earlier committed. No costs.

Sd/-

VICE-CHAIRMAN

19/4/85

Sd/-

MEMBER(A)

TRUE COPY

BA. V. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
27/4/85



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 3rd MARCH 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)
Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION No. 1967/86

M.H. Shiggavi

- Applicant

(Sri G.A. Nadgir, Advocate)

1. Assistant Controller of Stores
General Stores Depot,
South Central Railway, Hubli
2. District Controller of Stores,
General Stores Depot
S.C. Railway, Hubli
3. The Chief Personnel Officer
Office of the General Manager
South Central Railway, Secunderabad - Respondents

(Sri M. Sreerangaiah, Advocate)

This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

O R D E R

Proceedings were initiated against the applicant
by the Assistant Controller of Stores, SCR, Hubli ('R1')
under Rule 9 of the Railway Servants (Discipline & Appeal)
Rules, 1968 ('Rules') for theft of railway property.
These proceedings culminated in the order of removal
from service passed by R1. The applicant filed an appeal



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before the District Controller of Stores, SCR, Hubli ('R2') and the same was rejected. Thereafter, the applicant filed a revision petition before the Chief Personnel Officer, SCR, Secunderabad ('R3'), who also confirmed the penalty imposed by R1. Aggrieved by these orders the applicant has filed this application.

2. The contention, in the main, of Shri G.A. Nadgir, learned counsel for the applicant, is that the orders passed by the appellate authority (R2) and ~~order of~~ *order of* the revisional authority (R3) are not speaking orders and they are, therefore, liable to be set aside.

Shri M.S.Sreerangaiah, learned counsel for the ~~appx~~ respondents, submits that the orders passed by R2 and R3 should be read with the order passed by R1 and other relevant material on record and not viewed in isolation.

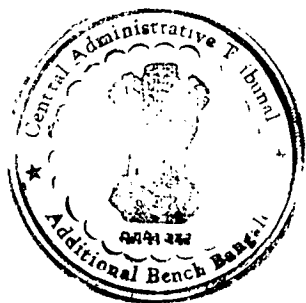
3. We have considered the rival contentions carefully. The Supreme Court in Ram Chander v Union of India AIR 1986 SC 1173 has recently observed:

"We wish to emphasize that reasoned decisions by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fair-play and justice also require that such a personal hearing should be given."

In view of the observations of the Supreme Court extracted above, the orders passed by R2 & R3 cannot stand. Accordingly, we set aside the same.

4. We direct the appellate authority (R2) to dispose of

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the appeal by a reasoned order after considering the matter afresh and after affording a personal hearing to the applicant, within three months from the date of receipt of this order. If the applicant is aggrieved by such order, he is at liberty to prefer a revision petition to the revisional authority (R3) who will also dispose of the same ^{and} within 3 months after compliance with the dicta of the Supreme Court observations cited supra.

If the applicant is still aggrieved by the order of R2 and R3, he is at liberty to move the Tribunal.

5. In the result the application is disposed of subject to the directions given above. No order as to costs.



sd/-
Member (J)

sd/-
Member (AM) 3.3.93

- True Copy -

R. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
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