

## CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 13 MAY 1988

APPLICATION NO

703

/88(F)

W.P. NO.

Applicant

Shri Paramashivaiah

Respondent

v/s The GM, Southern Railway, Madras &amp; 2 Ors

To

1. Shri Paramashivaiah  
S/o Late Shri S. Puttannaiah  
Biralahalli Post  
Akki Hebbalu  
K.R. Pet Taluk  
Mandya District
2. Shri S.B. Kulkarni  
Advocate  
C/o Shri R.L. Patil  
Advocate  
No. 530, HMT Layout  
Vishveshwaraiah Nagar  
Bangalore - 560 032
3. The General Manager  
Southern Railway  
Park Town  
Madras - 600 003

4. The Divisional Railway Manager  
Southern Railway  
Divisional Office  
Commercial Branch  
Mysore - 21
5. The Divisional Commercial Superintendent  
Southern Railway Divisional Office  
Commercial Branch  
Mysore - 21
6. Shri K.V. Lekshmanachar  
Railway Advocate  
No. 4, 5th Block  
Briand Square Police Quarters  
Mysore Road  
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCHPlease find enclosed herewith the copy of ORDER/ADAM/ADAM/ADAM/ADAM  
passed by this Tribunal in the above said application on 4-5-88.

Encl : As above

*Shel*  
SECTION OFFICER  
RECEIVED  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 4th DAY OF MAY, 1988

Present : Hon'ble Shri L.H.A.Rego

Member (A)

Hon'ble Shri Ch.Ramakrishna Rao

Member (J)

APPLICATION No.703/88(F)

Paramashivaiah,  
r/a Birahalli post,  
Akki Hebbalu,  
K.R.PetTAluk,  
Mandya District.

...

Applicant

( Shri R.L.Patil                    ...     Advocate )

vs.

1. Union of India,  
represented by General Manager,  
Southern Railway.

2. The Divisional Railway Manager,  
Divisional Office,  
Commercial Branch,  
Mysore - 21.

3. The Divisional Commercial Superintendent,  
Southern Railway Divisional Office,  
Commercial Branch,  
Mysore.                    ...

Respondents

( Shri K.V.Lakshmenachar            ...     Advocate )

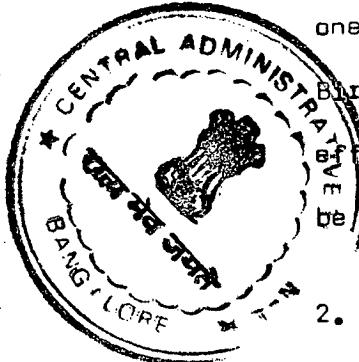
This application has come up before the Tribunal today.

Hon'ble Shri L.H.A.Rego, Member(A) made the following :

O R D E R

The applicant herein, assails the impugned order dated 5.4.1988(Annexure A) by Respondent(R)2, whereby, he has been given one month's notice, in regard to termination of his Halt Agency at Birahalli Train Halt, Southern Railway, Mandya District, with effect from 9.5.1988 and prays that the same be quashed and that he be granted such other relief as deemed proper.

2. The following minimal facts bring the case into perspective,



for the purpose of resolving the questions urged. Shri Puttannaian, the father of the applicant who had retired as Head Goods Clerk, at Holenarsipura Railway Station, on the Southern Railway on 7.6.1980, was on his application, appointed as a Halt Agent at Birahalli Halt Station, in Mandya district. On account of his illness, he presented an application to R-2, requesting him to authorise his son, namely the applicant in this case, to look after the duties of the said Halt Station. In response thereto, R-3 by his letter dated 18.11.1986 (Annexure C) permitted the applicant to look after the duties at the above Halt Station temporarily. The applicant continued to work in that capacity to date.

3. On 5.4.1988 (Annexure A), R-2 served one month's notice on the applicant, informing him, that he would be terminated as Halt Agent at Birahalli Halt Station, with effect from 9.5.1988, stating, that enquiry had revealed, that he was not remaining present at the place of his duty, as he was transacting his private business elsewhere and that he had nominated one Shri Prasad, to perform the duty on his behalf and that there were public complaints in regard to the work of the Halt Agent at the above Station. The applicant submitted a representation thereon to R-2, on 12.4.1988 (Annexure D), stating that the complaints against him, referred to in the aforesaid notice of termination, were ill-founded and malicious. Without awaiting reply from R2 to this representation, the applicant has rushed to this Tribunal for redress.

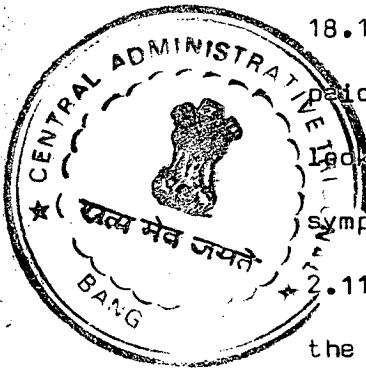
4. Shri S.B.Kulkarni, learned counsel for the applicant, (on behalf of Shri R.L.Patil) contends, that his client has been discharging his duties as Halt Agent at Birahalli Halt Station, since November 1986 diligently and faithfully, to the entire satisfaction of the railways, and that the notice of termination issued



to him by R2 on 5.4.1988 (Annexure A), is based on false & malicious complaints made against him, by some mischievous and disgruntled elements in Birahalli village. He further contends, that the said notice of termination was issued to him, without affording him any opportunity to substantiate his defence, which is violative of the principles of natural justice. He, therefore, prays, that the impugned order be quashed and that his client be continued as Halt Agent, at the aforesaid station.

5. Rebutting the above contentions of Shri Kulkarni, Shri K.V.Lakshmanachar, learned counsel for the respondents, states, that the applicant has of his own volition, <sup>as</sup> admitted in his representation dated 12.4.1988 (Annexure D), addressed to R2, with reference to the notice of termination dated 5.4.1988 (Annexure A), served on him, that he was not performing his duty as Halt Agent at Birahalli Halt Station, according to letter dated 18.11.1986 (Annexure C) from R2, but had entrusted the same to his brother one Shri Prasad, as he was required to attend to his private business, as a kerosene dealer. Shri Lakshmanachar, further points out, that the applicant has stated therein, that hereafter, he would himself work as Halt Agent at the said station and disassociate his brother from that duty, to prevent further complaints, as alleged.

6. Shri Lakshmanachar pinpoints our attention to the fact, that the applicant was not a regular employee of the Railways, which he says is evident, from the very nature of the order dated 18.11.1986, issued by R3, and clarifies, that the applicant was not paid regular monthly salary but ~~the applicant~~ was asked merely to look after the work of Birahalli Halt Station temporarily, on sympathetic consideration, pursuant to the written request dated 2.11.1986 from his father, to R2. He asserts, that entrustment of the duty of the Halt Agent as above, to the applicant, temporarily,



does not confer on him a vested right, for regular appointment as Halt Agent in the railways and consequently, the principles of natural justice are not attracted in this case.

7. We have carefully considered the rival contentions. The letter dated 18.11.1986 (Annexure C) from R2, plainly read, reveals, that the applicant was not given a regular appointment in the Railways, but was merely permitted, to look after the duties at the Birahalli Halt Station provisionally, and that too, on sympathetic consideration of the written request of the father of the applicant, on account of his illness. The fact that this appointment, was not preceded by the conventional procedure of inviting applications from eligible candidates and subjecting them to an interview and ~~that~~ <sup>fact</sup> if any, before selection, reveals, that the appointment of the applicant, was not on regular basis, but ~~that~~ a provisional one, on compassionate grounds, in the context of the request of the father of the applicant, who was ailing and was a railway employee. Besides, the applicant was not in receipt of regular salary but was remunerated by way of payment of commission on the sale of railway tickets. This appointment was somewhat alike that of a commission vendor. In this background, ~~as~~ the mere continuance of the applicant from November 1986 to date, to discharge his duties temporarily, as Halt Agent at Birahalli Halt Station, does not ipso facto confer on him, a vested right for regularisation in that post.

8. The representation dated 12.4.1988 (Annexure D), addressed by the applicant to R2, in response to the notice of termination served on him on 5.4.1988 (Annexure A), revealing, The relevant portion in para 2 of that representation, which speaks for itself, is reproduced below :-



"I was assisting my father as a Sub-Agent to a Kerosene Dealer at HLT, which I could not abandon after my father's death. Hence, the Train Halt was arranged to be maintained by my brother. Now since it is complained that his behaviour with the public is not accommodative though false, I have taken over the job of maintaining the Halt Agency by making arrangements for my brother to work with the Kerosene Dealer."

9. It is evident from the foregoing, that the applicant has squarely admitted, that he was not himself discharging the duty as Halt Agent at Birahalli Halt Station, as required but had entrusted the same to his brother, which was not authorised by the letter dated 18.11.1986 (Annexure C), by R3. This voluntary admission by him unravels the truth and his own admission has been fatal to him. The applicant thus not only failed to perform faithfully, the legitimate duty entrusted to him as Halt Agent but also violated the instructions in the aforesaid letter dated 18.11.1986 by R3, providing him temporary employment.

10. In view of the facts and circumstances analysed above, we find, that the impugned notice of termination, served by R2 on the applicant, on 5.4.1988 (Annexure A), is in order.



11. In the result, the application fails and is accordingly dismissed. No order as to costs.

Sd/-

MEMBER (A) 11/4/88

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Sd/-

MEMBER (J)

4.5.88

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*Shree*  
SECTION OFFICER (31)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE