

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BOA)
Indiranagar
Bangalore - 560 038

Dated : 19 JAN 1989

APPLICATION NO. 1075 / 88(F)

W.P. NO. _____

Applicant(s)

Shri P. Srinivasa Murthy
To

Respondent(s)

V/s The General Manager, Southern Railway,
Madras & 3 Ors

1. Shri P. Srinivasa Murthy
No. 382, 9th Main
Vijayanagar
Bangalore - 560 040
2. Shri M. Narayanaswamy
Advocate
844 (Upstairs), V Block
Rajajinagar
Bangalore - 560 010
3. The General Manager
Southern Railway
Park Town
Madras - 600 003
4. The Chief Electrical Engineer
Southern Railway
Park Town
Madras - 600 003
5. The Divisional Railway Manager
Southern Railway
Mysore Division
Mysore
6. The Divisional Electrical Engineer
Southern Railway
Mysore Division
Mysore
7. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Sqaure Police Quarters
Mysore Road
Bangalore - 560 002

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 application(x) on 13-1-89.

Encl : As above

Handwritten signature
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 13TH DAY OF JANUARY, 1989

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1075/1988

Shri P. Srinivasa Murthy,
S/o late Puttappa,
Aged 40 years,
Residing at No.382,
9th Main, Vijayanagar,
Bangalore-40.

.... Applicant.

(Shri M. Narayanaswamy, Advocate)

v.

1. The General Manager,
Southern Railway Headquarters,
Park Town, Madras.
2. The Chief Electrical Engineer,
Southern Railway,
Madras.
3. The Divisional Manager,
Divisional Office,
Mysore.
4. The Divl. Electrical Engineer,
Mysore Division,
Southern Railway,
Mysore.

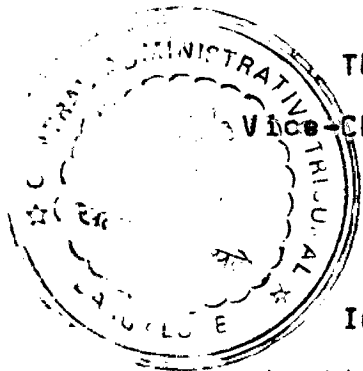
.... Respondents.

(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, 1985 (the Act), the applicant has challenged order No.P(A)87/Y/77 dated 22.4.1988 (Annexure-G) of the General Manager, Southern Railway, Madras and the Reviewing Authority (RA) and order No.P(A)87/Y/71 dated



1.12.1987 (Annexure-E) of the Chief Electrical Engineer, Southern Railway, Madras and the Appellate Authority (AA) and order No.Y/E.150/III/SPE/PSM dated 28.4.1987 (Annexure-C) of the Divisional Railway Manager, Mysore and the Disciplinary Authority (DA).

2. At the material time, the applicant was working as Electrical Chargeman in Hassan Railway Station of the Southern Railway. In a trap case laid against him on 11.12.1985, he was found receiving a sum of Rs.30/- as illegal gratification from one Shri Narayana an official working in the same railway station for showing him an official favour. On this, regular disciplinary proceedings were instituted against the applicant under the Railway Servants (Discipline and Appeal) Rules, 1968 (the Rules) by the Divisional Electrical Engineer, one of the disciplinary authorities under the said rules. On the applicant denying the charges levelled against him, a regular inquiry was conducted, in which the Inquiry Officer (IO) found him guilty of the charge levelled against him.

3. On an examination of the report of the IO and the records, the DA by his order made on 28.4.1987 imposed on the applicant the penalty of removal from service. Aggrieved by this order of the DA, the applicant filed an appeal before the AA who by his order dated 1.12.1987 dismissed the same. Aggrieved by these orders of the AA and the DA, the applicant filed a review petition before the RA, who by his order made on 22.4.1988 dismissed the same. Hence this application.

4. In justification of the orders made, the respondents have filed their reply and have produced their records.

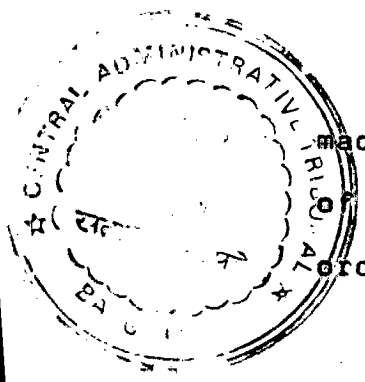
5. Shri M. Narayanaswamy, learned counsel for the applicant, contends that the order made by the AA was not a speaking order and illegal. In support of his contention Shri Narayanaswamy relies on the ruling of the Supreme Court in RAMCHANDAR v. UNION OF INDIA (AIR 1986 SC 1173).

6. Shri K.V. Lakshmanachar, learned counsel for the respondents contends to the contrary.

7. We have carefully read the order of the AA. Even though the order of the AA is not a lengthy order, it had dealt with all material points which arose for determination in the appeal before him. If that is so, then it is difficult to hold that the order of the AA is laconic and is not a speaking order. We see no merit in this contention of Shri Narayanaswamy and we reject the same.

8. Shri Narayanaswamy next contends that the order made by the DA without critically examining the report of the IO and the evidence on record was not a speaking order and illegal.

9. Shri Lakshmanachar contends that in cases of concurrence, the failure of the DA to make a speaking order as held by the Supreme Court in STATE OF MADRAS v. A.R. SRINIVASAN (AIR 1966 SC 1827) does not vitiate the order of the DA.



10. In the inquiry held, the IO had found the applicant guilty of the charge levelled against him. On an examination of the report of the IO and his findings the DA had concurred with the same, and had imposed the penalty. On the principles enunciated in Srinivasan's case, the failure of the DA if any to make a speaking order does not vitiate his order. We see no merit in this contention of Shri Narayanaswamy and we reject the same.

11. Shri Narayanaswamy contends that the findings of the authorities are manifestly perverse and are such that no reasonable person would have ever reached them and justify our interference on that ground.

12. Shri Lakshmanachar contends that the orders of all the authorities were based on a proper appreciation of the evidence on record and were not perverse.

13. We have carefully read the orders of the authorities and the material evidence on record. On such an examination we find it difficult to hold that the findings of the authorities are based on 'no evidence' or manifestly perverse. We see no merit in this contention of Shri Narayanaswamy and we reject the same.

14. Shri Narayanaswamy lastly contends that the punishment imposed was grossly disproportionate to the gravity of the charge and calls for substantial modification.

15. Shri Lakshmanachar opposes any modification in the punishment imposed on the applicant.

16. We have earlier noticed that in a trap case the applicant was found receiving illegal gratification which had been proved in the inquiry held against him. The applicant is found guilty of a serious misdemeanour involving moral turpitude. In these circumstances, we cannot modify the punishment imposed by the authorities. We see no merit in this contention of Shri Narayanaswamy and we reject the same.

17. As all the contentions urged for the applicant fail, this application is dismissed. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

Sd/-

MEMBER (A)



by Mrv.

TRUE COPY

DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Dyn: 287/89 35
28-8-89

[Handwritten signature]

D.No. 2397/89 Sec-IV-A
SUPREME COURT OF INDIA
NEW DELHI

Dated 2-8-89

From: The Additional Registrar
Supreme Court of India.

To

The Registrar

Central Administrative Tribunal
at Bangalore

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 5705 of 1989
(Petition under Article 136 of the Constitution of India,
for Special Leave to Appeal to the Supreme Court from the
Judgment and Order dated 13-1-89 of the High
Court of Central Administrative Tribunal at Bangalore
in Appln. No. 1075/88.)

P. Srinivasa MurthiPetitioner.

Versus

The General ManagerRespondents
and OAS

Sir,

I am to inform you that the Petition above-mentioned
for Special Leave to Appeal to this Court was/were filed on
behalf of the Petitioner above-named from the Judgment/Order
of the Central Administrative Tribunal at Bangalore
noted above and that the same was/were dismissed/disposed of
by this Court on the 7th day
of August, 1989

Yours faithfully
[Signature]
for ADDITIONAL REGISTRAR
[Signature]

AS|

