

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 27 FEB 1989

APPLICATION NO (S) 1820/88(F), 6, 28 & 29 & 146 /89(F)

W.P. NO (S) _____

Applicant (s)

Respondent (s)

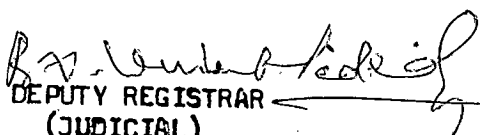
Shri C. Ramanand & 4 Ors
To

V/s The Senior Divisional Operating Supdt,
Southern Railway, Mysore & 2 Ors

1. Shri C. Ramanand
No. 183 'A', Railway Quarters
Arasikere - 573 103
Hassan District
2. Shri K.T. Ashok
Assistant Station Master
Karjagi Railway Station
Dharwad District
3. Shri R. Sivapatham
Leave Reserve Station Master
Habangatta Railway Station
Doddanahalli P.O.
Arsikere Taluk
Hassan District
4. Shri T. Dharmarajan
Station Master
Mavinkere Railway Station
Southern Railway
Mysore Division
Mavinkere
5. Shri Chandrasekhara Murthy
Assistant Station Master
Nanjangud Town Railway Station - 571 301
Southern Railway
Mysore Division
Mysore District
6. Shri S.K. Srinivasan
Advocate
No. 10, 7th Temple Road
15th Cross, Mallaswaram
Bangalore - 560 003
7. The Senior Divisional Operating
Superintendent
Southern Railway.
Mysore Division
Mysore
8. The Divisional Railway Manager
Southern Railway
Mysore Division
Mysore
9. The Chief Operating Superintendent
Southern Railway
Park Town
Madras - 600 003
10. 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 a copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 20-2-89.


DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE TWENTITH DAY OF FEBRUARY 1989

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

Hon'ble Shri L.H.A. Rego .. Member(A)

APPLICATION NOS. 1820/88(F), 6/89(F)
28 & 29/89 & 146/89(F)

1. C. Ramanand,
No. 183'A', Railway Quarter,
Arsikere 573 103.

2. T. Chermarajan,
Station Master,
Mavinkere Railway Station,
Mysore Division, Southern Rly.
Mavinkere.

3. Chandrasekhara Murthy,
Asst. Station Master,
Southern Railway,
Nanjangud Town Railway Station,
Pin: 571301.

4. K.T. Ashok,
Asst. Station Master,
Karjagi Railway Station,
Dharwar Dist.

5. A. Sivapatham,
Leave Reserve Station Master,
Habanghatta Railway station,
Doddanahalli P.O. Arsikere.

.. Applicants

(Shri S.K. Srinivasan .. Advocate)

-Vs-

1. Sr. Divisional Operating Supdt.,
Mysore Division, Southern Rly,
Mysore.

2. The Divisional Rly, Manager,
Southern Rly, Mysore Division,
Mysore.

3. The chief Operating Supdt.
Southern Rly,
Madras 600 003.

.. Respondents

(Shri M. Mahalingam .. Advocate)

..2/-

This application has come up today before this Tribunal for Orders. Hon'ble Vice Chairman made the following:

ORDER

As the questions of law that arise for determination in these cases are common, we propose to dispose of them by a common order.

2. All the applicants are working as Assistant Station Masters (ASMs) in one or the other Railway Station of Mysore Division of Southern Railway Zone. In separate disciplinary proceedings instituted against each of them under the Railway Servants (Discipline and Appeal) Rules, 1968 (rules) for the misdemeanour detailed against them, the Disciplinary Authority (DA) in each case imposed different penalties on each of them. Against the respective orders of the DA made against them, the applicants filed appeals under Rule 18 of the rules before the Divisional Railway Manager, Mysore Division, Southern Railway, Mysore (Appellate Authority - AA), challenging them on a large number of grounds. On different dates the AA had dismissed their appeals by separate but identical orders which have been communicated to them by the DA. Applicant in A.No.1820/88 also filed a revision petition before the Chief Operating Superintendent, Southern Railway, Madras and Revisional Authority (RA) who by order made on 30.5.1988 (Annexure A 6 to A.No. 1820/88) had rejected the same, however, reducing the punishment. In other cases the applicants have not availed of that remedy. The applicants have challenged the respective orders made against them by the RA, AA and the DA.

3. In justification of the orders made, the respondents have filed their separate but identical replies and have produced their records.

4. Shri S.K.Srinivasan, learned counsel for the applicants contends that the orders made by the AA in the appeals filed before him by his clients were not speaking orders and are illegal. In support of his contention, Shri Srinivasan strongly relies on the ruling of the Supreme Court in RAM CHANDER V. UNION OF INDIA AIR 1986 SC 1173.

5. Shri K.V.Lakshmanachar, learned counsel for the respondents sought to support the impugned orders.

6. In all these cases the very same AA had made his orders.

7. The order made by the AA in the case of the applicant in A.No.1820/88 reads thus:-

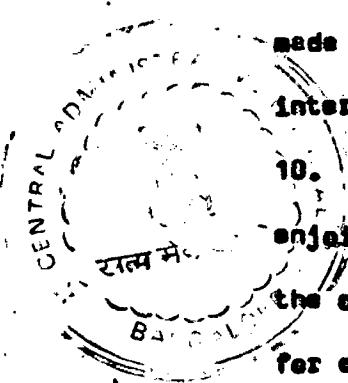
"I have gone through appeal and find no reason to change punishment".

In all other cases, the AA had made this very order.

8. Rule 22(2) of the Rules corresponding to Rule 27(2) of the CCS(CCA) Rules, directs the AA to examine an appeal with due regard to the three factors enumerated therein.

9. In Ram chander's case arising under the rules, the Supreme Court examining the scope and ambit of Rule 22(2) of the Rules, had ruled that the AA was bound to make a speaking order in conformity with that Rule. Without any doubt the orders made by the AA in all these cases suffer from every one of the infirmities pointed out by the Supreme Court in Ram Chander's case. On the principles enunciated in Ram chander's case, the orders made by the AA as also the RA in A.No. 1820/88 are liable to be interfered with by us.

10. When we find that the AA had not discharged the duties enjoined on him by law, we must necessarily set aside his orders and the order of the RA in A.No.1820/88 and remit the cases to the AA for disposal anew without examining the validity of the orders of the DA. Before the AA decides the appeals afresh we cannot accede to the extraordinary



extraordinary prayer of Shri Srinivasan to the effect that the orders made by the DA be also annulled.

11. Shri Srinivasan lastly contends that the AA had deliberately passed nonspeaking orders with a view to harass his client and, therefore, we should award costs in all these cases.

12. Shri Lakshmanachar contends that it is presumptuous on the part of counsel for the applicant, to allege that the AA had done so intentionally and that in any event that officer who passed these orders had since been transferred and therefore urged that we should not award costs.

13. We are distressed at the way the AA has decided the appeals before him. But notwithstanding the same, we are of the view that what is stated by Shri Lakshmanachar is correct. If that is so then we find no justification to award costs to the applicants.

14. In the light of our above discussion we make the following orders and directions.

- i) We quash the orders of the RA and the AA in all these cases.
- ii) We direct the AA viz. the Divisional Railway Manager, Mysore, to restore each of the appeals filed by the applicants before him to their original files and redetermine them in accordance with law and the observation made by Supreme Court in Ram chander's case, with all such expedition as is possible in the circumstances of the cases and in any event within three months from the date of receipt of this order.

15. Applications are disposed of in the above terms.

But in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-

VICE CHAIRMAN

20/2/89

Sd/-

MEMBER (A)

120-2/89

TRUE COPY



DEPUTY REGISTRAR (JUN)

27/2/89
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

