

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- **23 JUN 1994**

APPLICATION NUMBER: 760 of 1993.

APPLICANTS:

Sri.N.H.Handigol
To.

RESPONDENTS:

v/s. The Disciplinary Authority & Production
Engineer, South Central Railway, Hubli and
Others.

1. Sri.S.P.Kulkarni, Advocate,
No.2593, Upstairs, 11th Main-
E-Block, II Stage, Rajajinagar,
Bangalore-560 010.
2. The Deputy Chief Mechanical Engineer,
Workshops, South Central Railways,
Hubli.
3. Sri .A.N.Venugopala Gowda, Advocate,
No.8/2, Upstairs, R.V.Road, Bangalore-4.
4. The Chief Workshop Manager,
Workshops, South Central Railway,
Hubli.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 30-04-1994 and 06-06-1994.

Dr. S. Shanmugam
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

Issued

Dr

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 760/ 1994

WEDNESDAY, THE 30TH DAY OF MARCH, 1994

Shri V. Ramakrishnan ... Member (A)

Shri A.N. Vujjanaradhya ... Member (J)

Shri N.H. Handigol,
S/o Halappa Handigol,
Aged about 39 years,
Working as Springs Smith HSK-I,
(Now reduced to skilled)
South Central Railway Workshops,
Hubli. ... Applicant

(By Advocate Shri S.P. Kulkarni)

Vs.

1. The Disciplinary Authority
and Production Engineer,
South Central Railway,
Workshops, Hubli.
2. The Enquiry Officer,
S.S. Progress,
South Central Railway,
Workshops, Hubli.
3. The Deputy Chief Mechanical
Engineer,
South Central Work Shops,
Hubli.
4. The Chief Work Shop Manager,
South Central Railway Work Shops,
Hubli. ... Respondents

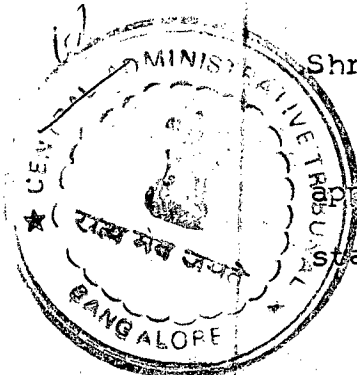
(By Advocate Shri A.N. Venugopal, learned
Standing Counsel for the Railways).

O R D E R

Shri V. Ramakrishnan

Shri Chidananda for Shri S.P. Kulkarni for the
applicant as also Shri A.N. Venugopal, the learned
standing counsel for the Railways are present. We

...2/-



four months from the date of receipt of a copy of that order. Shri S.P. Kulkarni filed a Memo. dated 31.3.94 requesting that the application may be posted for being spoken to 5.4.94. We had acceded to the request and heard him more than once.

2. Shri Kulkarni submits that our orders dated 30.3.94 may be recalled and that in the facts and circumstances of the case, we should issue a direction quashing the orders of the disciplinary authority dated 21.5.91 as at Annexure A-2. In support of his contention, he has listed the following points:

- (1) During the enquiry, no presenting officer was appointed and that the enquiry officer himself had asked some questions to the witnesses.
- (2) Charge 2 is directly connected with charge 1 and as charge 1 was held to be not proved, there is no logic in holding that charge 2 was proved.
- (3) The disciplinary authority had not applied his mind while passing orders as at Annexure A-2 as he had not given reasons for his decision.

Shri Kulkarni submits that the orders of the disciplinary authority, as at Annexure A-2 therefore, deserves to be quashed.

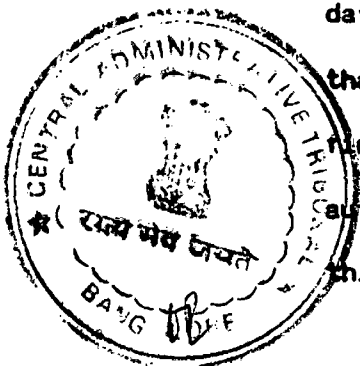
3. We have heard Shri Venugopal for the Railways who has made available the relevant records pertaining to the enquiry proceedings. Non-appointment of a presenting officer and the point that the enquiry officer asked a few questions to the witnesses will not vitiate the proceedings as no prejudice has been caused to the applicant by such action.

4. Shri Kulkarni submits that when charge 1 is held to be not proved, there is no question of charge 2 being held to be proved.

Shri Kulkarni states that the charge 1 relates to misbehaviour and

abuse with Shri M.S.D. Naidu and charge 2 states that the applicant threats to take dire action against Shri Krishnamurthy, Dy. SS/ SMSS, if Shri Krishnamurthy were to report his misbehaviour with Shri Naidu. The learned counsel for the applicant submits that when there was no misbehaviour with Shri Naidu, the article 2 also necessarily falls because there is nothing to report by Shri Krishnamurthy and there can be no question of any threat to him. As against this, Shri Venugopal submits that the charges are independent and that the charge of misbehaviour with Shri Naidu is distinct from the charge of misbehaviour with Shri Krishnamurthy. He further submits that charge 2 in the relevant portion refers to "behaviour" with Shri Naidu and not "misbehaviour". Shri Venugopal further brings to our attention reply to certain questions, particularly questions 31, 32, 33, 53, 54 and 93, which according to him would clearly establish that the charges are independent of each other.

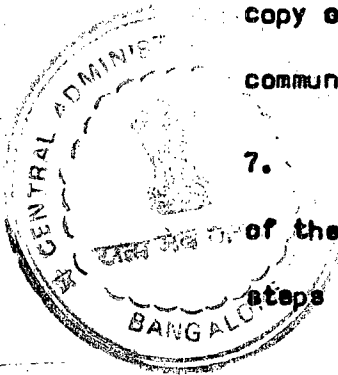
5. We find that the applicant in his appeal had taken up the precise point referred to by Shri Kulkarni, namely, that when charge one has not been proved, there is no question of holding that charge 2 to be proved. The appellate authority's order dated 31.3.92/ 1.4.92/ 2.4.92 at Annexure A-4 is totally silent on this aspect of the matter. Some materials had been adduced which seeks to make a prima facie case that the charges are independent. We refrain from expressing any view on this question at this stage. It is for the appellate authority in the first instance to come to a finding on the issues raised in the appeal. We also notice from para 7 of the appeal dated 5.8.91 as at Annexure A-3 that the applicant had taken the plea that disciplinary authority had not recorded the reasons for his findings and that the decision is vague. Here again, the appellate authority has not dealt with the issues and has not taken a review on this plea. We also notice that order of the revisional authority



dated 10/12.11.92 as at Annexure A-6 is very cryptic and that the revising authority has not dealt with the issues raised in the revision petition dated 30.7.92 as at Annexure A-5. As the points raised by Shri Kulkarni have been mentioned in the appeal/ revision petition which have not been specifically gone into, we had directed the concerned authorities to dispose of the appeal by means of a speaking order instead of our taking over the functions of the appellate authority.

6. In view of the foregoing, we see no reason to recall our order dated 30.3.94 which will hold the field. However, we now direct that the appeal as at Annexure A-3 has to be disposed of by means of a detailed speaking order by the appellate authority within three months from the date of receipt of a copy of this order. A copy of the order dated 30.3.94 as also the present order should be communicated to the parties forthwith.

7. If the applicant is still aggrieved after the revised disposal of the appeal/ revision petition, it is open to him to take appropriate steps as per law. All the other contentions are left open. No costs.



Sd/-
6/6/96
(A.N. Vujjanaradhya)
Member (J)

Sd/-
6/6/96
(V. Ramakrishnan)
Member (A)

TCV

TRUE COPY

S. Shauhar
28/6
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL DEPUTY
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 760/ 1994

WEDNESDAY, THE 30TH DAY OF MARCH, 1994

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Aged about 39 years,
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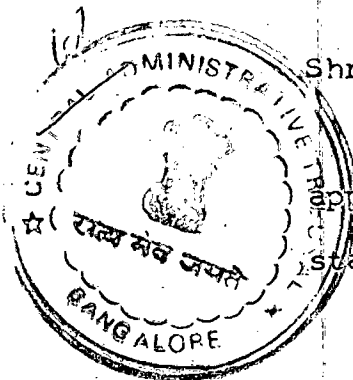
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O R D E R

Shri V. Ramakrishnan

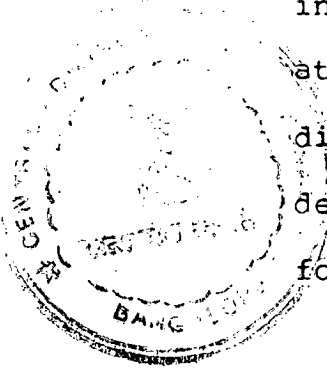
Shri Chidananda for Shri S.P. Kulkarni for the
applicant as also Shri A.N. Venugopal, the learned
standing counsel for the Railways are present. We

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find that against the orders of the Disciplinary Authority dated 21.6.91 (Annexure A-2) reducing him in rank, the applicant had filed an appeal dated 5.8.91 as at Annexure A-3 which was disposed of by the appellate authority by an order dated 19.2.92 etc. as at Annexure A-4. The revision petition filed by the applicant against this order was also disposed of by the revising authority by its order dated 10/12.11.92 as at Annexure A-6. We find that both the orders of the appellate authority as at Annexure A-4 and the orders of the revising authority as at Annexure A-6 are very cryptic and there is nothing to show that the authorities had applied their minds to the various points raised by the applicant in his appeal/ revision petition. We accordingly quash the orders as at Annexure A-4 and also as at Annexure A-6 and direct the appellate authority to dispose of the appeal as at Annexure A-3 by means of a detailed speaking order. This should be done within four months from the receipt of a copy of this order.

All the contentions raised in this application are left open. No costs.


Sd/-
(A.N. Vujjanaradhya)
Member (J)

Sd/-
(V. Ramakrishnan)
Member (A)