

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated:- 15 JUL 1994

APPLICATION NUMBER: 966 of 1993.

APPLICANTS:

RESPONDENTS:

Sri.Syed Maqbool v/s. Chairman,Railway Board,New Delhi-& Others.  
To.

1. Sri.M.Raghavendra Achar, Advocate,  
No.1074 and 1075, Fourth Cross,  
Sreenivasanagar II Phase,  
Banashankari First Stage, Bangalore-50.
2. The Divisional Railway Manager,  
Southern Railway, Bangalore.
3. The Divisional Personnel Officer,  
Southern Railway, Bangalore.
4. Sri.M.V.Nirmala, Advocate,  
No.53, N.S.Iyengar Street,  
Seshadripuram, Bangalore-560020.

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 30-06-1994.

Issued on  
19/7/94  
12

o/c

*S. Srinivasan*  
for DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.966/1993

DATED THIS DAY THE THIRTIETH OF JUNE, 1994

MR. T.V. RAMANAN

MEMBER (A)

Syed Maqbool,  
S/o Syed Jahangeer,  
Aged about 61 years,  
No.3, 14th A Cross,  
Lachchappa Colony,  
Yeshwanthpur,  
Bangalore - 560 022

Applicant

( By Advocate Shri M.R. Achar )

v.

1. The Chairman,  
Railway Board,  
Ministry of Railways,  
Rail Bhavan,  
New Delhi
2. The Divisional Railway Manager,  
Southern Railway,  
Bangalore Division,  
Bangalore
3. The Divisional Personnel Officer,  
Southern Railway,  
Bangalore Division,  
Bangalore
4. The General Manager,  
Southern Railway,  
Madras - 3

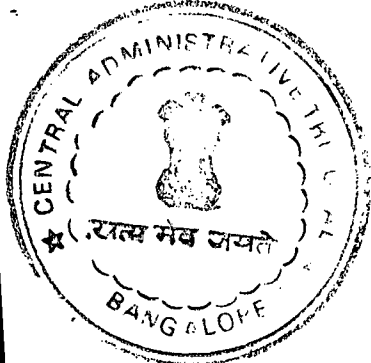
Respondents

( By learned Standing Counsel )  
for Railways Smt.M.V. Nirmala

ORDER

MR. T.V. RAMANAN, MEMBER (A)

In this application made under Section  
19 of the Administrative Tribunals Act, 1985,  
the applicant has challenged non-payment of an  
amount of Rs.15,352.80 on account of Death-cum-  
Retirement Gratuity (DCRG for short) payable



to him by the respondents on the date on which he retired i.e. 30.6.90 but which was not released in his favour owing to pendency of a departmental enquiry. It is seen that the applicant who retired as a Guard in the Southern Railway on 30.6.90 had been charged just prior to his retirement with an allegation of loss of money to the Railways owing to his negligence. After the enquiry against him was completed, the Disciplinary Authority had considered the same and exonerated the applicant and dropped the charges against him. This is evident from the letter dated 25.11.91/3.12.91 addressed to the applicant by the Senior Divisional Operating Superintendent, Bangalore (Annexure A-1). Subsequently, on the 26th June, 1992, the Divisional Commercial Superintendent, Mysore, addressed a letter to the Senior Accounts Officer (Traffic), Tiruchirapalli Junction (Annexure A-2) enclosing a pay order dated 26.6.92 for the DCRG sum of Rs.15,352.80 with the direction to arrange 'refund' to the applicant. Apparently, this was done owing to the exoneration of the applicant in the enquiry held against him. A copy of this communication was also endorsed to the applicant. It further appears that finding that he was not being paid the amount due to him, the applicant made a representation (Annexure A-3) to the Senior Accounts Officer (Traffic), Tiruchirapalli Junction with copies to the General Manager, Southern Railway, Madras, Financial Adviser & Chief Accounts Officer (FA&CAO for short), Southern Railway, Madras, DCS, Bangalore and others seeking early payment of the aforesaid amount. This was followed by

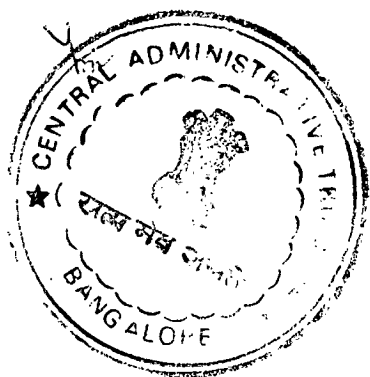
more representations on 1.4.93 (Annexure A-4) and 10.2.93 (Annexure A-5) but to no avail. Hence, this application before this Tribunal.

2. The reply statement filed on behalf of the respondents today recounts the charges levelled against the applicant and goes on to say that the DA had held that the applicant could not be held responsible for the loss caused to the government to the extent of Rs.15,352.80 and therefore exonerated the applicant of the charges levelled against him. Thereafter, the reply statement contains the following submissions:

"Though immediately after the decision of the DA a proposal was sent for arranging refund of the withheld gratuity amount, the Financial Advisor & Chief Accounts Officer/Madras (FA&CAO) has not accepted the proposal with the observation that "taking all the facts into consideration, the Guard Sri Syed Maqbool was technically fixed responsible since he had given acknowledgement to the Station Master for having received the cash bags but had not signed the way bill. Therefore it is opined that exonerating the Guard based on the findings of the Enquiry Officer is not correct." It was therefore proposed to pursue the matter further as the decision of the DA that he was fully exonerated of the charges could not be accepted.

Before a final decision could be taken in the matter, either to initiate action against the applicant or to take action to waive off the amount as an irrecoverable loss, the applicant has rushed to the Hon'ble Tribunal. The subject matter regarding the recovery of the loss of Rs.15,350.80 was caused to the Railway Administration or regarding waiver of the loss caused to Railways is under active consideration and a decision will be taken in consultation with the FA & CAO and the Headquarters Office, Madras.

It is submitted that the applicant is not entitled to the relief sought for in view of the above.



Wherefore, this Hon'ble Tribunal may be pleased to dismiss this application in the ends of justice and equity."

3. A perusal of the submissions made above would show that instead of making payment to the applicant on the basis of the letter at Annexure A-2 of 26.6.1992, no payment has been made so far and the matter is still hanging fire because the FA&CAO could not accept the exoneration ordered by the Disciplinary Authority. In fact, he has questioned the exoneration. Learned counsel for the respondents is unable to explain as to how the FA&CAO is competent to question the decision taken by the Disciplinary Authority. It is also admitted, as may be seen from the extracts reproduced from the reply that no final decision has so far been taken "either to initiate action against the applicant or to take action to waive off the amount as irrecoverable loss". The respondents have further stated that the matter is still under active consideration while the fact remains that 2 years have passed since the issue of direction as in Annexure A-2.

4. The orders of the competent authorities exonerating the applicant and also directing payment of the amount in question to the applicant still stand. As a matter of right, the applicant is entitled to payment of the amount stated above. There is no justification whatever for the department to linger on and come up now with promises of action after a period of more than two years since the applicant was exonerated in the enquiry held against him.

5. This application, therefore, succeeds.  
The applicant may be paid the sum of Rs.15,352.80  
with an interest of 12% thereon w.e.f. 26.6.92  
(the date of Annexure A-2) to the date payment  
is finally made. It is further directed that  
payment with interest to the applicant be made  
as above within a period of two months from the  
date of receipt of a copy of this order by  
R-2 and R-3. No order as to costs.

*Sd/-*  
( T.V. RAMANAN )  
MEMBER (A)

**TRUE COPY**



*Sd/-*  
**SECTION OFFICER**  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ADDITIONAL BENCH**  
**BANGALORE**