

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 29 SEP 1994

APPLICATION NUMBER: 1056 and 1302 of 1994.

APPLICANTS:

The Divisional Railway Manager and
To. Wilfred Pinto, Southern Railways, v/s. Mysore

RESPONDENTS:

Shi. Wilfred Pinto, Mysore,
Southern Railways, and
Presiding Officer, CGIT,
Bangalore and another.

1. Sri.A.N.Venugopal Gowda, Advocate, No.8/2, Upstairs,
Rashtriya Vidyalaya Road, Bangalore- 560004.
2. Sri.R.S.Vidyashankar, Advocate, Second Floor,
Vijayalaxmi Buildings, Near Hotel Kalinga,
K.R.Circle, Mysore.
3. The Presiding Officer, Central Government Industrial Tribunal-
cum-Labour Court, Geetha Mansion, K.G.Road, Bangalore-560 009.
The Original case papers of C.R.No.12 of 1989 disposed of on
18.2.94 are sent herewith, as directed by the Tribunal. The
documents are as stated in the Index attached, These may
kindly be acknowledged please.

By ROAD

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 15th September, 1994.

Issued on
29/9/94

o/c
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NOS.1056 & 1302 OF 1994

THURSDAY THIS THE FIFTEENTH DAY OF SEP., 1994

MR. JUSTICE P.K. SHYAMSUNDAR

VICE CHAIRMAN

MR. T.V. RAMANAN

MEMBER (A)

1. The Divisional Railway Manager
Southern Railway,
Mysore

Applicant
(in O.A.1056/94)

2. Wilfred Pinto, Major
S/o late M.S. Pinto,
residing at No.20,
Sewage Farm Road,
Mysore - 570 008

Applicant
(in O.A.No.1302/94)

(By Advocate Shri A.N.
Venugopal for applicant in
O.A.No.1056/94

Shri R.S. Vidyashankar for
applicant in OA 1302/94)

v.

1. Shri Wilfred Pinto,
S/o Selwadar Pinto
No.868/2,
Chamundeshwari Road,
Siddappa Square,
Mysore

Respondent
(in O.A.No.1056/94)

2. The Presiding Officer,
C.G.I.T./Labour Court
Geetha Mansion,
K.G. Road,
Bangalore - 560 009

Respondent
(in O.A.Nos.1056/94 &
1302/94

3. The Divisional Railway Manager
Southern Railway,
Mysore

Respondent
(in O.A.no.1302/94

(By Advocate Shri R.S.)
Vidayashankar for Res-1
in O.A.No.1056/94

Shri A.N. Venugopal for
R-3 in O.A.No.1302/94)




O R D E R

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

This is the sibling of the application in O.A.No.1094/94 disposed of today. The challenge is to the Award of the Industrial Tribunal made in CR "o.12/89 on 18.2.94 granting reinstatement to the workman with 50% back wages. The operative portion reads:

"The order of the II party Divisional Railway Manager, Southern Railway, Mysore in dismissing the I party workman from service w.e.f. 31.12.1985 is not justified. The II party is directed to reinstate the I party workman with seniority and continuity of service. The II party shall pay 50% of the back wages to the party workman. Award passed as stated herein. Submit to Government."

2. Shri A.N. Venugopal seeks to challenge this award with enthusiasm but the argument advanced is somewhat lukewarm because while the workman did give evidence in support of his grievance touching the termination of his services claiming to be unjustified and unwarranted etc. etc., what transpired thereafter was after the case of the workman was closed, the Railway Administration, despite the ample opportunities afforded did not produce any rebuttal. It is clear from the records of the Tribunal that as many as, if not more, 18 adjournments had been granted to the Railway Administration to lead rebuttal evidence and the matter remained pending before the Tribunal for nearly 9 months. In this behalf, the Railway Administration did not lead any evidence of its



own and ultimately the Tribunal having lost its patience with the Railway Administration decided to close the case and proceeded to make an award.

3. It is not denied and there is no dispute that on the basis of the evidence of the workman albeit the cross-examination of MW-1, the workman was entitled for an award invalidating the termination of his services. The position may have been different and we cannot speculate thereon i.e. in case the Railway Administration had produced any rebuttal in which event the totality of the evidence would have to be weighed and a decision on the balance reached but however that did not transpire. Of course, on the question of back wages, the learned Tribunal has awarded back wages of 50% and gives no reason for awarding the same. That, in fact, is the grievance of Shri Venugopal for the Railways in A.No.1056/94. ~~That is~~ ^{There is}, however, is the similar grievance voiced by Shri Vidyashankar, appearing for the Workman(R-1) in A.No.1302/94, wherein the workman seeks to contend that he should have been restored with 100% back wages. Whether it is 50% or 100%, the award does suffer from this deficiency of not giving the reasons either for awarding backwages of 50% only and indicating for not awarding backwages of 100% as claimed by the workman. This quantification of back wages of 50% as against the claim of 100% by the Tribunal certainly suffers from the criticism levelled by both sides i.e. by the Railway Administration



and the workman. But then the award of back wages is totally something within the discretion of the Tribunal although it would have been appropriate for Industrial Tribunal to express itself by disclosing the reasons for arriving at such conclusion, in the facts and circumstances of the case, awarding backwages. But, we think, having regard to the long pendency of the quarrel between the management and the workman almost entering into the last leg of the decade after commencing in the year 1985, that this matter should receive a quietus at least now. The Tribunal probably thought reinstatement with 100% back wages was not justified as the claim would then go back to the year 1985 ^{when} ~~upon~~ granted 9 years later ^{that} and ~~thereon~~ it should not go the whole hog and hence felt justified in decreeing only a mock.

Although it does appear to be an instance of the Parkinson's law being operative, but we think this is an appropriate case in which we should uphold the discretion exercised by the Tribunal in ~~reversing~~ ^{making} an award with 50% backwages only.

In view of the matter, we dismiss both the applications - i.e. by the Railway Administration in C.A.No.1056/94 and by the workman in C.A. No.1302/94 with no order as to costs. Now that the curtain is brought down with this order on this controversy which started in the year 1985, it is time enough that the Railway Administration ~~to~~ take steps to implement the award of the Tribunal unless, of course, they have other views

in the matter. We hence direct the Railway Administration to implement the award of the Tribunal made in CR No.12/89 disposed of on 18.2.94 within one month from the date of receipt of a copy of this order. Records of the Tribunal to be returned to the Tribunal forthwith. No costs.

Sd-

MEMBER (A)

Sd-

VICE CHAIRMAN

TRUE COPY



Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore