

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 032.

Dated: **25 APR 1995**

APPLICATION NO. 636 of 1994.

APPLICANTS: N. Ramachandra,

V/S.

RESPONDENTS: The Secretary, Ministry of Railways,
New Delhi and three others.,

To

1. Sri. K.V. Shamanna, Advocate,
No. 1465, 14th Main Road,
West of Chord Road,
Mahalakshmiपुरam, Bangalore-560 086.
2. Smt. M.V. Nirmala, Advocate,
No. 53, N.S. Iyengar Street,
Seshadripuram, Bangalore-20.
3. The Divisional Railway Manager,
Southern Railway, Mysore.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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Please find enclosed herewith a copy of the Order/
Stay Order/Interim Order, passed by this Tribunal in the above
mentioned application(s) on Third April, 1995.

Issued on
25/4/95

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore - 560038.

Dated: 25 APR 1995

To

1. Sri. Sanjeev Malhotra,
All India Services Law
Journal, No. 22, Tagore
Park, Near Model Town,
DELHI - 110 009.
2. M/s. Administrative Tribunal
Reporter, No. 90, Bhagar Singh
Market, NEW DELHI - 110 001.
3. The Administrative Tribunals
Judgements, No. 3857, Sector-32D,
CHANDIGARH - 160 047.
4. The Editor, Administrative
Tribunal Cases, C/o. Eastern
Book Company, No. 34, Lalbagh,
LUCKNOW - 226 001.
5. M/s. Services Law
Reporter, No. 108,
Sector-27-A,
CHANDIGARH.
6. The Chief Editor,
Weekly Law Notes,
Khanda Falsa,
JODHPUR
7. The Dy. Secretary,
Indian Law Academy,
Rajajipuram,
LUCKNOW - 226017.
8. The Manager,
Swamys Publishers (P)
Ltd., PB. No. 2468,
No. 164, R.K. Mutt Road,
Sandhya Mansions,
Raja Annamalaipuram,
MADRAS - 600 028.
9. The Secretary, The Karnataka
Law Reporting Council,
Old K.G.I.D. Building,
Bangalore - 560 001.

Sir,

I am directed to forward herewith a copy each of
the undermentioned Orders passed by a Bench of this Tribunal
with a request for publication in the journals.

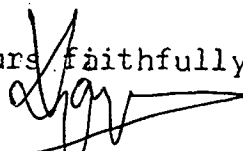
APPLICATION NUMBER.

DATE OF THE ORDER.

1. O.A. NO. 636 of 1994. Dated: 03-04-1995.

-x-x-x-x-x-x-

Yours faithfully,



1 (DEPUTY REGISTRAR)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NUMBER 636 OF 1994

MONDAY, THIS THE 3RD DAY OF APRIL, 1995.

Mr. Justice P.K. Shyamsundar,

.. Vice Chairman.

Mr. T.V. Ramanan,

.. Member (A)

Mr. N. Ramachandra,
S/o Nagadava Bhatta,
Aged about 45 years, now working
as Station Master, Dudda
Railway Station, Hassan District.
Pin - 573 118

.. Applicant.

(By Advocate Shri K.V. Shamanna)

v.

1. Union of India,
Ministry of Railways by its
Secretary, Government of India,
New Delhi.
2. The Divisional Railway Manager,
Southern Railway, Mysore.
3. The Divisional Operating Manager,
Southern Railway, Mysore Division,
Mysore.
4. The Station Master Grade-I,
Southern Railway, Hassan.

.. Respondents.

(By Standing Counsel Smt. M.V. Nirmala)

ORDER

Mr. Justice P.K. Shyamsundar, Vice-Chairman:-

We have heard Mr. K.V. Shamanna, learned counsel for the applicant and Mrs. M.V. Nirmala, Standing Counsel for the Railways. This is a case in which the applicant has been penalised by the Railway administration for wrongly availing of 2 days compensatory rest and also permitting some others to work on a rest day without proper justification. Proceedings were initiated against the applicant which began with a show cause notice, the applicant having duly joined issue in that behalf, the Disciplinary Authority, however, held the allegations



levelled against him to be true and in consequence imposed punishment of foregoing his increments for 3 years without cumulative effect vide order at Annexure-A6.

2. From the aforesaid order the applicant preferred an appeal to the Appellate Authority, respondent-2. We find from the order that the aforesaid authority had dealt with the appeal in an extremely cryptic and totally casual fashion ending with a summary dismissal of the appeal. We find that the applicant had submitted a very lengthy memorandum raising as many as 11 grounds. We notice from the impugned order that on none of these grounds any finding has been recorded by the Appellate Authority. The order of the Appellate Authority is at Annexure-9. It reads :-

"PENALTY ADVICE

Sub: DAR case against you.

Ref: Your appeal addressed to DRM/MYS dated 4-6-1993 against the penalty imposed by DOM/MYS vide penalty advice of even no. dated 12-5-1993.

In terms of Rule 22(2) of RS(D&A) 1968 DRM/MYS, the appellate authority has carefully considered your above quoted appeal and has rejected it duly minuting as under:

'The charge of having availed two days C.R. in lieu of one day rest foregone has been admitted and upheld. The penalty has been justly imposed. I cannot agree with the other contentions of the employee in this appeal. They don't contribute to any reversal of the charge. We are to take action to see that the charged employee attends to his work sincerely. Only a stiff penalty is merited in this case. I, therefore, confirm the penalty of 3 years withholding (N.R) that was imposed by the Disciplinary Authority.

Please acknowledge receipt."

As can be seen, it is totally brief and wholly bald. We have been quite often telling these appellate authorities that they should proceed in an orderly manner by taking up and considering all the points raised in an objective manner that would indicate

that there was some involvement by the authority in these matters making obvious that the Appellate Authority has applied its mind to the controversies raised and then deciding it to the best of its light. It is not necessary to emphasise that an order passed by an administrative authority without application of its mind smacks of a very grave error that ultimately leads to defeating of justice itself. This is one such case wherein we find the Appellate Authority being totally bankrupt of ideas and knowhow, as to how it should perform the appellate function. We must take this opportunity to point out the manner of disposal of appeals by the Appellate Authority arising for its consideration, i.e, it must focus attention to the controversial issues and advert to it with reference to the evidence recorded and after weighing the finding recorded by the Disciplinary Authority must then indicate its own views and conclusions. A mere mechanical and totally desultory affirmance of the finding recorded by the Disciplinary Authority is not the appropriate manner in which appellate jurisdiction is to be exercised or expended. We need hardly emphasise the fact that a punishment which is very often the end result leads ^{to} serious consequences vis-a-vis delinquent official and in every case leads to loss of status, loss of financial benefits, not to mention the pain and anguish suffered by the punished official who has suffered the punishment. If that be the resultant situation, ^{of} the Appellate Authority does not even take recourse atleast to pay lip sympathy to the anguished application made to it, we think that such type of lackadissical consideration of an appeal not merely defeats justice but also stifles the rule of law. In this connection we may refer to two judgment of the Supreme Court which highlight the need to give reasons in support of the conclusions reached by the Appellate Authority. First is the decision in



in MADHYA PRADESH INDUSTRIES LIMITED v. UNION OF INDIA (AIR 1966 SC 671). The Court adverting to the salutary principle of giving reasons in support of an order stated thus:-

"(7) The question cannot be disposed of on purely technical considerations. Our constitution posits a welfare State, it is not defined, but its incidents are found in Chapters III and IV thereof, i.e., the Parts embodying fundamental rights and directive principles of State Policy respectively. "Welfare State" as conceived by our Constitution is a State where there is prosperity, equality, freedoms and social justice. In the context of a welfare State, administrative tribunals have come to stay. Indeed, they are the necessary concomitants of a welfare State. But arbitrariness in their functioning destroys the concept of a welfare State itself. Self-discipline and supervision exclude or at any rate minimize arbitrariness. The least a tribunal can do is to disclose its mind. The compulsion of disclosure guarantees consideration. The condition to give reasons introduces clarity and excludes or at any rate minimizes arbitrariness; it gives satisfaction to the party against whom the order is made; and it also enables an appellate or supervisory Court to keep the tribunals within bounds. A reasoned order is a desirable condition of judicial disposal.

(8)

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A speaking order will at its best be a reasonable and at its worst be atleast a plausible one. The public should not be deprived of this only safeguard.

(9) It is said that this principle is not uniformly followed by appellate Courts, for appeals and revisions are dismissed by appellate and revisional Courts in limine without giving any reasons. There is an essential distinction between a Court and an administrative tribunal. A judge is trained to look at things objectively, uninfluenced by consideration of policy or expediency; but, an executive officer generally looks at things from the stand-point of policy and expediency. The habit of mind of an executive officer so formed cannot be expected to change from function to function or from act to act. So it is essential that some restrictions shall be imposed on tribunals in the matter of passing orders affecting the rights of parties; and the least they should do is to be give reasons for their orders. Even in the case of appellate Courts invariably reasons are given except when they dismiss an appeal or revision in limine and that is because the appellate or revisional Court agrees with the reasoned judgment of the subordinate Court or there are no legally permissible grounds to interfere with it. But, the same reasoning cannot apply to an appellate tribunal, for as often as not the order of the first tribunal is laconic and does

not give any reasons. That apart, when we insist upon reasons, we do not prescribe any particular form or scale of the reasons. The extent and the nature of the reasons depend upon each case. Ordinarily, the appellate or revisional tribunal shall give its own reasons succinctly; but in a case of affirmance where the original tribunal gives adequate reasons, the appellate tribunal may dismiss the appeal or the revision, as the case may be, agreeing with those reasons. What is essential is that reasons shall be given by an appellate or revisional tribunal expressly or by reference to those given by the original tribunal. The nature and the elaboration of the reasons necessarily depend upon the facts of each case.

(emphasis supplied)

The other case to which we invite attention is of SIEMENS ENGINEERING AND MANUFACTURING COMPANY OF INDIA LIMITED v. THE UNION OF INDIA AND ANOTHER (AIR 1976 Supreme Court 1785). Therein the Court after noticing that in a welfare State that administrative authorities cannot always be looked upon ^{as} ~~for~~ substitutes for courts of law, went on to point out the inadequacy felt in the manner the administrative authorities function. The relevant statement is at para 6 of the judgment and it reads:-

"It is now settled law that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by a long line of decisions of this Court ending with N.M.Desai v. Testeels Ltd., C.A.No.245 of 1970 decided on 17-12-75 (SC). But, unfortunately, the Assistant Collector did not choose to give any reasons in support of the order made by him confirming the demand for differential duty. This was in plain disregard of the requirement of law. The Collector in revision did give some sort of reason but it was hardly satisfactory. He did not deal in his order with the arguments advanced by the appellants in their representation dated 8th December, 1961 which were repeated in the subsequent representation dated 4th June, 1965. It is not suggested that the Collector should have made an elaborate order discussing the arguments of the appellants in the manner of a court of law. But, the order of the Collector could have been a little more explicit and articulate so as to lend assurance that the case of the appellants had been properly considered by him. If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative law, they may have to be so replaced, it is essential

that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law."

(emphasis supplied)

The Appellate Authority's decision in the instant case does not reach anywhere near the parameters reflected by the decisions of the Supreme Court referred to supra nor does it justify the normative factors we have ourselves spelled out herein. It has simply and mechanically affirmed the Disciplinary Authority's findings, but that is not what is expected of it as can be seen from the proceedings referred to herein. Hence, it is, we are constrained to set aside the Appellate Authority's order at Annexure-A9.

3. For the reasons mentioned above, this application succeeds in part, in that we strike down the Appellate Authority's order at Annexure-A9 and remit the case back to the Appellate Authority for a de novo consideration of the applicant's appeal on its merits, in the light of the observations made herein as also in accordance with law.

5. Let a copy of this order be sent to R-2 for information and needful action. On receipt of this judgment the Appellate Authority will dispose of the applicant's appeal afresh within 3 months of receipt of a copy of this order. No costs.

TRUE COPY

[Signature]
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Secretary

Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd/-

MEMBER(A)

Sd/-

VICE-CHAIRMAN.