

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD  
O.A.NO.413 of 1992.

Between

Dated: 22.12.1995.

K.Krishna

...

Applicant

And

1. Assistant Mechanical Engineer(R&L), Headquarters Office, Power Branch, Railnilayam, South Central Railway, Sec'bad.
2. Chief Mechanical Engineer(Power), South Central Railway, Railnilayam, Secunderabad.
3. General Manager, South Central Railway, Railnilayam, Sec'bad

...

Respondents

Counsel for the Applicant

: Sri. G.V.Subba Rao

Counsel for the Respondents

: Sri. V.Bhimanna, SC for Rlys.

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice Chairman

Hon'ble Mr. A.B.Gorthi, Administrative Member

T-C

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Contd:...2/-

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Copy to:-

1. Assistant Mechanical Engineer(R & L),  
Headquarters Office, Power Branch, Rail Nilayam, South  
Central Railways, Secunderabad.
2. Chief Mechanical Engineer(Power), South  
Central Railway, Rail Nilayam, Secunderabad.
3. General Manager, South Central Railways,  
Rail Nilayam, Secunderabad.
4. One copy to Mr. G. V. Subba Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Bhiamanna, SC for Rlys,  
CAT, Hyderabad..
6. One copy to Library, CAT, Hyd.
7. One spare copy .

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T. C. R

V. Bhiamanna

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<i>[Signature]</i>

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Accordingly, AME being an officer lower than a Junior Scale Officer cannot impose the penalty of removal from service. A Group 'B' officer, however, is empowered to initiate disciplinary proceedings in respect of a Group 'D' employee and award any of the minor penalties, as per Schedule II to the Railway Servants (Discipline & Appeal) Rules, 1968. There does not seem to be any controversy in this regard and as such it must be held that the penalty of removal is liable to be set aside.

4. For the above reason, there is no need to consider the other contentions raised on behalf of the applicant.

5. In the result, the impugned penalty order dt.3.6.91 removing the applicant from service is hereby set aside together with the order of the appellate authority rejecting the applicant's appeal. This order does not, however, debar the competent authority to consider the record of the inquiry proceedings and the Inquiry Officer's report and pass appropriate orders. As the applicant had already been taken back into service on 22.1.92 by the order of the General Manager, the question as to how the period from 3.6.91 to 22.1.92 should be treated shall have to be decided by the competent authority in terms of Rule 1344 (F.R.54-A) of the Indian Railway Establishment Code Vol.II. //

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

*[Signature]*  
न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अख्यतरेक  
Central Administrative Tribunal  
हैदराबाद बेंच  
HYDERABAD BENCH

T.C 2

pursuant to the direction issued by the Court, the claims of others for promotion require to be considered and finalised. We direct the Government to finalise the list as recommended by the Public Service Commission and then make promotion to the substantive posts according to Rules of all the persons recommended by the Public Service Commission within the quota prescribed under the Rules. The appeal is disposed of. No costs.

Order accordingly

SUPREME COURT OF INDIA  
Before:- N.P. Singh and Faizan Uddin, JJ.  
Civil Appeal No. 7456 of 1995  
[Arising out of S.L.P. (C) No. 2828/1987]  
Decided on 21.8.1995

S.K. Giri

Versus

Home Secy., Ministry of Home Affairs and others

Constitution of India, Articles 136 and 311—Punishment—In the circumstances, punishment of removal from service was harsh. Direction issued to reinstate the appellant but arrears will not be paid with effect from 24.4.1984 upto 31.12.1994—Other benefits with continuity of service be given.

#### JUDGMENT

Faizan Uddin, J.—Heard counsel for the parties.

2. Leave granted.

3. This appeal has been directed against the judgment and order dated 11.11.1986, passed by the Delhi High Court dismissing the writ petition filed by the appellant against the order of his removal from service.

4. The appellant was appointed as Security Guard on 16.12.1970 in the Central Industrial Security Force. He was promoted as Head Constable in September, 1981. In January, 1983 the appellant was posted as Head Security Guard in the C.I.S.F. Unit Rourkela Steel Plant. On 25.1.1983 when the appellant was on duty in 'B' shift (from 1.00 PM to 9.00 PM) at 'C' post in the area known as N.R. Gate along with a Security Guard, a large number of persons totalling about 109 entered inside the Plant at about 7.45 PM and were found removing coal from the M.C.D. area which was the duty point of the appellant. The Crime Branch Staff seized 45 gunny bags filled with coal from the said intruders. It was alleged that at that point of time the appellant was found absent from his duty and he came to his duty point about 25 minutes after the aforesaid incident. Consequently, the appellant was charge-sheeted for misconduct and gross negligence of duty and an enquiry against him was held. In the enquiry the appellant took the stand that the duty area was a jungle area with thick bushes and since a large number of persons had entered the Plant and the appellant and the Security Guard with him were unarmed and, therefore, he asked the Security Guard to keep an eye on the situation and he himself rushed to the nearest telephone wherefrom he reported the incident to the Shift Incharge and the Control Room whereafter the criminals were apprehended and the coal was seized from them. However, the enquiry officer found the appellant guilty of the said charge in pursuance of which the disciplinary authority after considering the findings of the enquiry officer awarded the penalty of removal from service with effect from 24.4.1984. The appeal preferred by the appellant was dismissed on 13.9.1984 against which the appellant filed the writ petition in the High

of Delhi which was also dismissed by the impugned order against this appeal has been directed.

Learned counsel appearing for the appellant submitted that the appellant was not absent from duty on the relevant date and time but in fact had to convey message to the higher authorities and to make a report of the incident. He submitted that this short absence while he had gone to inform his superiors cannot be regarded as an act of absence from duty. He further submitted that in any case the punishment of removal from service was too harsh and disproportionate to the charge against him. He urged that the appellant deserved lenient punishment who had a clean and unblemished service record right from the year 1970.

After hearing the learned counsel for parties we are of the opinion that the punishment awarded to the appellant is no doubt severe and disproportionate and the same deserves to be set aside. Consequently, having regard to the facts and circumstances of the present case, we set aside the order of removal of the appellant from service dated 23.4.1984 and the impugned order of the High Court. We direct the respondents to reinstate the appellant with immediate effect. But the appellant will not be entitled to the arrears of his salary with effect from 24.4.1984, the date of removal from service to 31.12.1994. The appellant shall however be entitled for the salary and all other benefits with effect from 1.1.1995. We also make it clear that the period from 24.4.1984 to the date of reinstatement of the appellant shall be treated in continuity of service. The respondents shall re-fix the salary of the appellant.

Consequently, the appeal is allowed to the extent indicated above. No order as to costs.

Appeal allowed.

SUPREME COURT OF INDIA  
Before:- J.S. Verma and K. Venkataswami, JJ.  
Civil Appeal No. 7510 of 1995  
[Arising out of SLP (Civil) No. 9969 of 1993]  
Decided on 21.8.1995

M.R. Gupta

Versus

Union of India and others

Appellant

Respondents

Limitation Act, 1963—Civil Procedure Code, 1908, Section 20—Administrative Tribunals Act, 1985, Section 21—Limitation/Cause of action/Pay fixation of pay in accordance with rules—The claim to be paid the correct salary computed on the basis of proper pay fixation is a right which subsists during the entire tenure of services—It is a continuing wrong which gives rise to a recurring cause of action each time he was paid salary which was not computed in accordance with rules—Right of fixation of pay in accordance with the rules cannot be barred by any limitation—The other consequential reliefs such as arrears of pay, promotion etc. would be subject to the defence of laches.

Having heard both sides, we are satisfied that the Tribunal has missed the real point and overlooked the crux of the matter. The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not

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Serial Circular No. 227/89 Circular Letter No. P(R)481/S&T.  
Dated: 26-12-1989.

Copy of Board's letter No. PC-IV/89/03/20/25 dated 27-11-89 is published for information, guidance and necessary action.

Copy of Railway Board's Letter No. PC-IV/89/03/02/25 dated 27-11-1989

Sub.: Scales of Stenographic Assistance to Officers on the Railways.

The entitlement of Railway Officers for stenographic assistance has been revised by the Railway Board pursuant to adoption of the Revised Pay Scales on the basis of IV Central Pay Commission's recommendations. It has been decided that the scales of pay and designations of stenographers attached to the officers of different levels will be as follows:

Level of Stenographic Assistance	Scale of Officer entitled
Stenographer (Rs. 1200-2040)	Jr. Scale Officers (Rs. 2200-4000) Sr. Scale Officers (Rs. 3000-4500)
Stenographer (Rs. 1400-2300)	Sr. Scale Officers (Rs. 3000-4500) JA Grade Officers (Rs. 3700-5000) SG Officers (Rs. 4500-5700)
One Stenographer (Rs. 1400-2300) should be attached to two senior scale officers	
Personal Assistant (Rs. 2000-3200)	Chief Security Commissioner (Rs. 5100-6150) SA Gr. Officers (Rs. 5900-6700 & above)

2. These instructions will take effect from the date of issue of these orders.

Serial Circular No. 228/89 Circular Letter No. P. (R) 420/IV.  
dated: 26-12-1989.

Copy of Board's letter No. E(G)89 LE2/16 dt. 6-12-89 is published for information, guidance and necessary action. Board's letters dated 25-1-89 referred to there in were circulated under confidential letters No. P (R) 227/Con/III of 3-3-87 and 28-2-89 respectively.

26-12-86 (not 26-2-86) and

Copy of Board's letter No. E (G) 89 LE2-16 dated 6-12-89.

Sub:- Regularisation of the period of unauthorised absence.

Attention is invited to the instructions contained in this Ministry's D. O. No. E (G) 86LE-2/12 dated 26-2-86 and No. E (G) 88 LE-2/3 dated 25-1-89, stressing the need to tighten up the administrative machinery and for initiating action in cases of unauthorised absence of Railway employee.

The question as to how the spell of unauthorised absence should be regularised if the employee is allowed to re-join duty after the period of absence and is imposed a

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punishment other than compulsory retirement, removal or dismissal under the D&A Rules has been under consideration of this Ministry as the practice being followed at present from Railway to Railway vary. The matter has been considered and it is clarified that the period of absence in such cases may be treated only as extraordinary leave subject to provisions contained in para 510 of IPEC (5th edition) and no part of the absence period be allowed to be covered by leave salary payable for leave not admissible. This issues with the concurrence of Finance Directorate of the Ministry of Railways

Serial Circular No. 229/89 No. P. RES/171/Policies/IV  
Dated 2-12-1989.

Copy of Board's letter No. 89-E/SCT/129-5 dated 8-11-89 together with a copy of Office Memorandum No. 36011/25/89-EST dt. 21-8-89 and No. 36010/30-ESTT (SCT) dated 24-6-85 Ministry of Personnel Public Grievances and Pensions, Dept. of personnel & Training Govt. of India is published for information and necessary action.

Board's letter mentioned therein were already circulated and they are also available in the Brochure on Reservation for scheduled castes and Scheduled Tribes in Railway Services (3rd Edition)

Copy of Board's letter No. 89-E(SCT)1/29-5 dated 8-11-89

Sub: Placement, Postings, Transfer of Scheduled Castes and Scheduled Tribes employees - Harassment and discrimination in the matter of

Ref: Board's letter No. (i) E/SCT, 60CMI/100 dt. 8-12-60

(ii) E, SCT/70, CMI/5/15/3 dt. 19-11-70

(iii) E/SCT/74, CMI/5, 58 dt. 14-1-75

(iv) 78-E/SCT, 15/25/ dt. 6-7-78

(v) 85-E/SCT, 1/43, I dt. 24-12-85.

A Copy of Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel and Training)'s O. M. No. 36011/25/39-ESTT(SCT) dated 21-8-89 is enclosed for information and guidance.

In this connection, attention is also invited to the instructions contained in Board's letter's quoted above. Ministry of Railways desire that these instructions should be scrupulously followed and any violation thereof be seriously viewed.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
HYDERABAD BENCH, HYDERABAD.

O.A. No. 1561/97

O.A. NO. 1561 OF 1997

J.D. INDUNATHAN

APPLICANT

V/S

UNION OF INDIA,  
REPRESENTED BY THE GENERAL MANAGER,  
SOUTH CENTRAL RAILWAY,  
SECUNDERABAD AND 5 OTHERS.

RESPONDENTS.

COUNTER AFFIDAVIT OF RESPONDENTS NO.1 TO 6

I, A. Nagender Reddy S/O Gal Reddy, aged 35 years occupation Government Servant, R/o. Hubli, do hereby solemnly affirm and state as under:

1. I am working as Senior Divisional Personnel Officer, at Hubli Division of South Central Railway and I am Respondent No.4 herein. As such I know all the facts. I am filing this counter affidavit on my behalf and also on behalf of other Respondents as I am authorised to do so.

2. I have gone through the contents of O.A. and I hereby specifically deny the allegation/averments which are not admitted and which are contrary to the submission made herein.

3. Brief facts of the case are as under:

The applicant was appointed on compassionate grounds as Loco Khalasi and the date of his regular appointment is 15.11.1971 and not 1.3.1971 as contended by him in the O.A. He progressed up to

ATTESTOR

*[Signature]*  
सहायक कार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

DEPONENT

*[Signature]*  
वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.


*[Signature]*  
P. Rathiah  
Advocate  
26/2/98

1/11/94

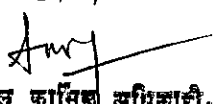
the post of Boiler-maker in scale Rs.1200-1800(RSRP). While working as Boiler Maker at Loco Foreman's Office, Hubli, he applied to grant 90 days LHAP., i.e.; Leave on Half Average Pay from 1.11.1991 onwards vide his leave application dated 16.10.1991. His request for grant of 90 days Leave on Half Average Pay was regretted. However in the regret letter it was clearly mentioned that he may apply for LAP i.e. Leave on Average Pay if eligible. Though he was having 8 days leave on Average Pay at his credit neither did he apply for the same nor approached to the higher authorities against refusal of Leave on Half Average Pay. Instead of doing so, he remained absent unauthorisedly for 799 days from 1.11.1991 to 7.1.1994 without obtaining prior sanction or producing sick certificate issued by the Railway Doctor. The applicant had applied for voluntary retirement by his application dated 26.12.1992. But the same was not accepted in view of his non-completion of requisite period of qualifying service i.e. 20 years, as per rules and this position has been communicated to the applicant by the Railway Administration by letters No.H/P.579/IV/BR & I dated 1.2.1993 (Annexure A-6) and No. H/P.579/IV/BR & I dt. 19.7.1994 (Annexure A.12). The applicant in his representations had requested to sanction leave available at his credit

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ATTESTOR


  
सहायक निदेशक (प्रशासन),  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

DEPONENT

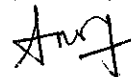
  
वरिष्ठ मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली,  
South Central Railway HUBLI.

and thereby to count for qualifying service to make good the short fall to complete 20 years of qualifying service. It is submitted that he was having 8 days Leave Average Pay and 224 days Leave on Half Average Pay at his credit. Even if all the leave at his credit had to be sanctioned, the qualifying service will not be completing 20 years as required for accepting voluntary retirement as per rules. A Charge Memorandum was issued to the applicant for his unauthorised absence from 1.11.1991 to 7.1.1994, duly asking him to submit his written statement of his defense for the said charges. But, he did not do so. In turn he had sent a letter dated 30.3.1994 addressed to the Disciplinary Authority (Divisional Mechanical Engineer, Hubli) to keep the disciplinary proceedings in abeyance stating that he had made representation to the Minister of Railways on 8.3.1994 (Annexure R-I). Since the applicant had not made out any sufficient and valid grounds for pending the disciplinary proceedings, the enquiry was conducted as per the procedure laid down in Railway Servants (Discipline & Appeal) Rules, 1968. The applicant had participated in the enquiry and he had admitted the charges during the enquiry and also during the enquiry he stated that he was satisfied with the procedure of the disciplinary proceedings. All

ATTESTOR

  
सहायक निमित्त अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

DEPONENT



वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

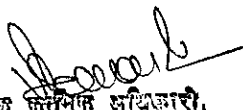
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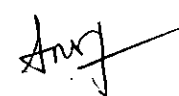
reasonable opportunities were given to the applicant to defend his case. The Enquiry Officer found that charges leveled against the applicant stands proved. A copy of the Enquiry Officer's report was sent to the applicant for which the applicant had acknowledged. After receipt of Enquiry Officer's report he had not submitted representation. Hence the Disciplinary Authority after having carefully gone through the enquiry proceedings and after careful consideration in the matter has passed speaking order of penalty removing the applicant from service by order No.H/P.227/IV/93/1045 dated 7.4.1995 (Annexure A.16). The applicant submitted representation to the Appellate Authority, (Annexure A-18) wherein he once again requested for voluntary retirement though it was made clear to him several times that accepting of voluntary retirement was not permissible under the rules because of his not completing 20 years of qualifying service. The Appellate Authority after consideration in the matter had confirmed the penalty order passed by the Disciplinary Authority (Annexure A.19). Afterwards the applicant had submitted Revision Petition to the Revising Authority (Annexure A-20) wherein he requested for compulsory retirement. The Revising Authority after going through the case carefully

ATTESTOR

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DEPONENT

  
सहायक निमित्त अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

  
वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

(52)

and after careful consideration in the matter confirmed the penalty order removing the applicant from service (Annexure A-22)

3. In reply to para 6(1) of the O.A. it is submitted that the averment made therein are specifically denied being false and incorrect. The date of regular appointment of the applicant is only from 15.11.1971 and not from 1.3.1971 as contended by him.

4. In regard to para 6(2) of the O.A., it is submitted that though his request for 90 days leave on Half Average Pay was rejected, it was made clear to him for applying for grant of Leave on Average Pay. He did not apply for the same.

5. In reply to para 6(3) to 6(7) of the O.A., it is submitted that the allegation made therein are specifically denied being baseless. It is submitted that the applicant was having qualifying service less than 20 years. As per the rules to opt for voluntary retirement an employee must have 20 years qualifying service. In the case of the applicant his qualifying service is as under:


Date of appointment.	15.11.1971
Date of application for voluntary retirement.	26.12.1992

Total Service. 22 years 1 month 11 days

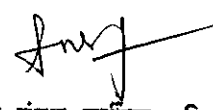
Non-qualifying service. 3 years and 9 days.

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ATTESTOR

  
सहायक कर्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

  
वरिष्ठ मंडल कर्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

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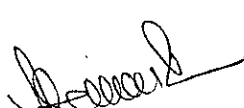
Qualifying service. 19 years 1 month 2 days.

Therefore, the respondents could not accept his request for voluntary retirement. This position was made clear to him several times (Annexure A.7). But the applicant went on requesting for voluntary retirement repeatedly. It is submitted that respondents have checked the service particulars of the applicant thoroughly and after proper checking only the period of qualifying service as 19 years 1 month and 2 days was communicated to him. The passing of penalty order as at Annexure A.15 is not at all of a sudden as alleged by the applicant. As stated supra the said penalty order was passed duly observing procedure laid down under Railway Servants (Discipline & Appeal) Rules, 1968 and the applicant has also participated in the disciplinary proceedings. The Disciplinary Authority after carefully considering the findings of Enquiry Officer has passed the said penalty order.

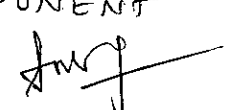
6. The allegation made in sub-para 6(8) and 6(9) are denied being false and incorrect. It is submitted that the Appellate Authority has confirmed the order of Disciplinary Authority after carefully considering the matter and Revising Authority has also after carefully considering the matter passed speaking orders confirming the order of removal from service. As per the Railway Servants (D&A) Rules 1968 the Appellate Authority and

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ATTESTOR

  
सहायक कार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

  
वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

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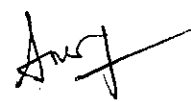
Revising Authority have power to confirm, modify or set-aside the orders passed by the Disciplinary Authority. The Allegation that the revising authority is not competent to pass such orders is incorrect. No order passed by the authorities are violative of Articles 14, 16 and 311(1) of the Constitution of India.


7. In reply to para 1 to 3 under the head "GROUNDS" of the O.A., it is submitted that the allegation made therein are specifically denied being false and incorrect. It is submitted that the representation made by the applicant are duly considered and suitable reply sent. The calculation of qualifying service shown in para 1 of the "GROUNDS" is base less. the reason for initiating disciplinary proceedings against the applicant was for his unauthorised absence and not for his requesting for voluntary retirement as alleged by the applicant in para 2 of the "GROUNDS". It is submitted that the respondents have not acted contradictory to the procedure laid down in Railway Servants(Discipline & Appeal) Rules, 1968. The Disciplinary proceedings was initiated by the competent authority i.e. Disciplinary Authority only as per rules. The said Disciplinary Authority is empowered to pass orders in the matter of Disciplinary Proceedings. The allegation that the Disciplinary Authority and Revising Authority have

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ATTESTOR

DEPONENT

  
परिचय मंडल कार्यालय अधिकारी,  
St. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

  
परिचय मंडल अधिकारी,  
Personnel Officer

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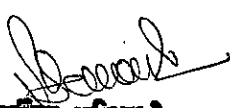
no Locus STANDI to conduct enquiry is base less. Competent Authorities have observed all procedures laid down in the rules of disciplinary proceedings in conducting the enquiry and the applicant had also participated in the enquiry proceedings. During the course of enquiry he said that he was fully satisfied with the DAR proceedings. Hence, there is no reason to render the penalty order as Null & Void.

8. In regard to para 4 of the "GROUNDS" in the O.A., it is submitted that the averment made therein are base less and hence denied. In the case of the applicant the General Manager is neither the Disciplinary Authority nor the Appointing Authority. The applicant is trying to mislead this Hon'ble Tribunal by Mis-interpreting the Rules of DAR procedure with an ulterior motives.

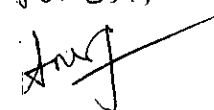
9. In regard to paras 5 to 7 of the "GROUNDS" in the O.A., it is submitted that the applicant can not compare his case in that of O.A. No.352/86 or O.A. No.413/82 or SLP No.2828/97 mentioned in the said paras. The facts and circumstances involved in the said citations are different from that of the applicant. The applicant is misconceived.

10. In reply to the para 8 of the grounds it is submitted that the applicant is relying on a

ATTESTOR

  
सहायक कर्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

  
ज्येष्ठ मंडल कर्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

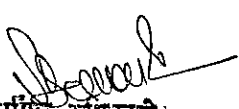
rule of 1993 where he submitted representation for voluntary retirement in the year 1992. Thus Rule of 1993 are not applicable to the applicant. Moreover, for treating any period as particular leave there must be a request from the employee to the competent authority.

11. In regard to para 9 of the grounds in the D.A., it is submitted that the Railway Board's circular produced as Annexure A.23 is of no avail to the applicant since it applies to the unauthorised absentees who are allowed to re-join duty after the period of absence and is imposed punishment other than compulsory retirement, removal or dismissal under the D&A rules.

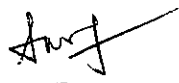
12. In regard to paras 11 to 13 of the grounds in the D.A., it is submitted that the allegations made therein are denied being baseless and false. It is submitted that the action of the respondents in removing the applicant from service is neither against rules of natural justice nor contradictory to Articles 14, 16 and 311(1) of the Constitution of India.

13. It is submitted that the D.A. is devoid of merits and untenable and hence liable to be dismissed. The applicant is not entitled to any reliefs sought for in the D.A.

ATTESTOR

  
सहायक कार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

DEPONENT

  
वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

57

14. In view of the submissions made above it is respectfully submitted that this Hon'ble Tribunal may be pleased to dismiss the O.A. with costs in the interest of justice.

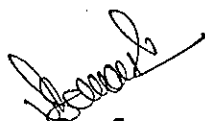
DEPONENT



Sworn and Signed before  
me on this the ...20<sup>th</sup>...day  
of February 1998.

वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

ATTESTOR.



सहायक कार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

सहायक कार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

वरिष्ठ मंडल कार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

In the C.A.T.  
Hyd Bench

CA 1561/97

Reply Statement



ANNEXURE - R-1

ZION PRAYER HOUSE  
Teacher's Colony,  
Vaniyambadi-2..

Place:

Date:

36.3.94.

From

J.D. INBANATHAN  
Boiler Maber/UBL  
ZION PRAYER HOUSE  
54/A1 Teachers Colony  
Khaderpet,  
VANIYAMBADI 635 751.

To

DME/L/UBL..... Disciplinary Authority,

Sir,

Ref: Your office memorandum of charges (SF-5)  
in No.H/P227/IV/93/1045 24.1.94 with Covering  
letter (from S.D.DPO/UBL) dt. 17.3.94.

While duly acknowledging the memo of charges cited above, I respectfully submit the following for your kind perusal and favourable action please.

The unauthorised absence for 798 days as alleged in the article of charge was a cumulative adverse result/ corollary of the rejection of my request for leave for 90 days (LHAP) by the concerned authorities at a time while I was engulfed in acute domestic problems. Therefore, I, with humility along the charge of contrevailing any rules under R.S. conduct Rules.

Further, My request for acceptance of my voluntary retirement was also not agreed to. Under such pressing and agonising circumstances having I have now (on 8.3.94) sent a request to the Minister for Railways for committal orders in my case.

In this circumstance please keep the disciplinary response to my letter detailed defence statement from the high office of M.R.

Thank you.

Yours faithfully,  
J.D. INBANATHAN

(J.D. INBANATHAN)

constrained to  
presentation and  
I request in absence pending  
I shall submit my  
course on hearing

58

In the C.A.T.  
Hyd Bench

OA. 1561/97

Reply Statement



Filed by:-

N. R. Devanay  
27 May 2000  
13/1/98

ANNEXURE - R-I

ZION PRAYER HOUSE

Teacher's Colony,

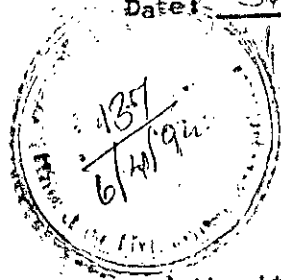
Place: Vaniyambadi-2.

Date: 30.3.94.

58

From

J.D.INBANATHAN  
Boiler Maber/UBL  
ZION PRAYER HOUSE  
54/A1 Teachers Colony  
Khaderpet,  
VANIYAMBADI 635 751.



To

DME/L/UBL..... Disciplinary Authority.

Sir,

Ref: Your office memorandum of charges (SF-5)  
in No.H/P227/IV/93/1045 24.1.94 with Covering  
letter (from S.D.DPO/UBL) dt. 17.3.94.

P.M.  
Muc

While duly acknowledging the memo of charges cited above, I respectfully submit the following for your kind perusal and favourable action please.

The unauthorised absence for 798 days as alleged in the article of charge was a cumulative adverse result/corrollary of the rejection of my request for leave for 90 days (LHAP) by the concerned authorities at a time while I was engulfed in acute domestic problems. Therefore, I, with humility along the charge of contrevning any rules under R.S. conduct Rules.

Further, My request for acceptance of my voluntary retirement was also not agreed to. Under such pressing and agonising circumstances having constrained to do so, I have now (on 8.3.94) sent a representation to the Honourable Minister for Railways for commiseration and favourable orders in my case.

In this circumstances, I request your goodself to please keep the disciplinary proceedings in abayance pending response to my letter to the honble M.R. I shall submit my detailed defence statement also in due course on hearing from the high office of M.R.

Thank/you.

Yours faithfully,

*J.D. Inbanathan*  
(J.D.INBANATHAN)

Attested

*[Signature]*

सहायक रेल प्रबंधक / हुबली  
(Asst. Divl. Rly. Manager / HUBLI)

59

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

MA 531/98 in OA 1561/97

DATE OF ORDER : 19-11-98

Between :-

J.D.Inbanathan

... Applicant

And

1. Union of Indian rep. by the  
General Manager, S.C.Railway,  
Sec'bad.
2. Chief Personnel Officer,  
SC Riys, Sec'bad.
3. Addl.Divisional Railway Manager,  
SC Riys, Hubli, Dharward, Dist.Karnataka.
4. Sr.Divisional Personal Officer,  
SC Riys, Hubli, Dharward, Dist.Karnataka.
5. Sr.Divisional Mechanical Engineer,  
SC Riys, Hubli, Dharward, Dist.Karnataka.
6. Divisional Mechanical Engineer,  
SC Riys, Hubli, Dharward, Dist.  
Karnataka.

... Respondents

-- -- --

Counsel for the Applicant : Shri P.Rathaiah / Shri G.S.Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

-- -- --

CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A) ).

*R*  
19.11.98

-- -- --

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A) ).

-- -- --

Orders in MA 531/98

Heard Shri G.S.Rao, learned counsel for the Applicant at great length and also Sri N.R.Devaraj, learned Standing Counsel for the Respondents on the M.A. for amending the Original Petition.

2. The amendments sought to be incorporated are not admissible since the proposed changes are totally out of context to the grounds raised <sup>well as</sup> as <sup>^</sup>reliefs prayed for in the main O.A. The changes proposed in the M.A. would completely alter the entire complexion of the case. The applicant shall be free to file a fresh O.A., taking all the grounds and arguments mentioned in the M.A., if so advised, and seek a proper relief in the light of those grounds. The case will be examined according to law, if such O.A. is filed.

3. The M.A. is thus disposed of.


Orders on the O.A.

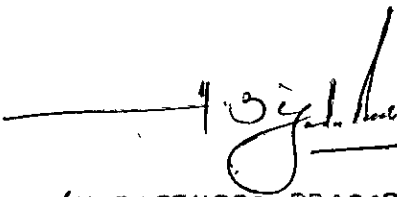
It is submitted by the learned counsel for the applicant that he desires to withdraw this case. He is permitted to do so. This permission is granted after hearing both the counsels at considerable length.

Jg  
29.11.9

The Original Application is thus disposed-of as withdrawn.

No order as to costs.


  
(B.S. JAI PARAME SHWAR)  
Member (J)  
19.11.98

  
(H. RAJENDRA PRASAD)  
Member (A)

Dated: 19th November, 1998.

Dictated in Open Court.

avl/

  
Deputy Registrar

-4-

MA.531/98

O.A. 1561/97

To

1. The General Manager, SC Rly  
Union of India, Secunderabad.
2. The Chief Personnel Officer,  
SC Rlys, Secunderabad.
3. The Addl.Divisional Railway Manager,  
SC Rlys, Hubli, Dharward, Karnataka State.
4. The Sr.Divisional Personal Officer, SC Rlys,  
Hubli, Dharward Dist. Karnataka.
5. The Sr.Divisional Mechanical Engineer,  
SC Rlys, Hubli, Dharward, Karnataka.
6. The Divisional Mechanical Engineer,  
SC Rlys, Hubli, Dharward Dist. Karnataka.
7. One copy to Mr.P.Rathaiah, Advocate, CAT.Hyd.
8. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
9. One copy to HHRF.M.(A) CAT.Hyd.
10. One spare copy.

pvm.

1/12/98

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

AND VICE-CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

The Hon'ble Mr. B. S. Jai Parameswari: M(A)

DATED: 19-11-1998.

ORDER/JUDGMENT

M.A./R.A./C.A.No. 531/98  
in

O.A.No. 1561/97.

T.A.No. (w.p.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

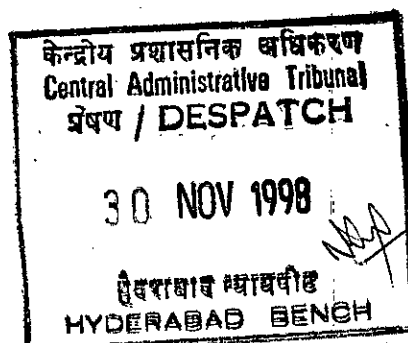
Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.



MA. 531/98 in OA. 1561/97.

DATE

Office Note

ORDER

23-10-98

Re: Mr. G. S. Rao for  
Mr. P. Rathai for the  
applicant and Mr. W. Satyarrayana  
for Mr. N. R. Devany for the  
respondents.

One week time is given to  
the respondents to file their reply  
to the MA. This is in addition  
to the time already granted  
to them on earlier  
occasions.

Let this case be final  
disposal with or without  
reply to the MA on 30/11/98.

*J. J.*  
HBSJP  
M(J)

*J. J.*  
HHRP  
M(B)

MA. 531/98

in

OA. 1561/97.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH,

AT HYDERABAD

O.A.NO.1561 of 1997

M.A.No. 531 of 1998

Between:

J.D. Inbanathan,  
R/o Bethel Prayer House No.31/A,  
Govinda Swamy Street, Jolarpetta,  
Vellore, CHENNAI - T.N. 635 851.

.. Applicant

AND

1. Union of India represented by the  
General Manager, South Central  
Railway, Secunderabad.
2. Chief Personnel Officer,  
South Central Railway, Secunderabad.
3. Addl. Divisional Railway Manager,  
South Central Railway, Hubli,  
Dharward Dist, Karnataka.
4. Sr. Divisional Personnel Officer  
South Central Railway, Hubli,  
Dharward Dist, Karnataka.
5. Sr. Divisional Mechanical Engineer,  
South Central Railway, Hubli,  
Dharward, Dist. Karnataka.
6. Divisional Mechanical Engineer,  
South Central Railway, Hubli,  
Dharward, Dist., Karnataka.

.. Respondents

APPLICATION FILED UNDER RULE 8(3) OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL PROCEDURAL RULES 1987:

For the reasons stated in the accompanying affidavit  
the applicant humbly prays that this Hon'ble Tribunal  
may be pleased to amend the prayer and quash the R-4 letters  
dt.1-2-93 & 17-07-94<sup>11-4-96</sup> and further direct R-4 to sanction  
leave at his credit and accept voluntary retirement from  
26-12-92 and pay all consequential retiral benefits and  
pass such other order/orders as this Hon'ble Tribunal may  
deem fit and proper, in the interest of Justice.

DATE: -07-98

HYDERABAD.

*Attorney*  
11/7/98-  
Counsel for the applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH,

AT HYDERABAD

O.A.No.1561 of 1997

M.A.No 531 of 1998

Between:

J.D. Inbanathan,  
R/o Bethel Prayer House No,31/A  
Govinda Swamy Street, Jolarpetta,  
Vellore, CHENNAI - T.N. 635 851.

.. Applicant

AND

1. Union of India represented by the General Manager, South Central Railway, Secunderabad.
2. Chief Personnel Officer, South Central Railway, Sec'bad.
3. Addl. Divisional Railway Manager, South Central Railway, Hubli, Dharward, Dist, Karnataka.
4. Sr. Divisional Personnel Officer South Central Railway, Hubli Dharward, Dist. Karnataka.
5. Sr. Divisional Mechanical Engineer, South Central Railway, Hubli, Dharward, Dist. Karnataka.
6. Divisional Mechanical Engineer, South Central Railway, Hubli, Dharward, Dist., Karnataka.

.. Respondents

AFFIDAVIT

I J.D. Inbanathan, S/o Jaipaul aged 46 years occupation former Boiler maker, S.C.Railway, Hubli now residing at H.No.31/A Govind swamy street, Old Jolarpetta, North Arcot Dist. 635 851, temporarily came done to Hyderabad do hereby and sincerely affirm and state on oath as follows:

1. I am the applicant herein as such I am well aquinted with the facts of the case deposed here under.
2. I state that I have filed O.A.No.1561/97 on 11-11-97 praying to quash the imposition of removal orders by R-3 and 4 for unauthorised absence.
3. I state that I worked as a substitute Khalasi in locoshed, Hospet in Hubli division from 10-06-70 to 30-06-70, 01-03-71 to 15-11-71 (A-2 reverse).
4. I further state, that my date of appointment was shown as regular from 15-11-71 to 26-12-92 (i.e.)22years 01month and 11days(A-6)

..2..

5. I submit during the period of my regular service from 15-11-71 to 26-12-92, I am in LWP from 17-6-82 ~~and~~ to 6-1-83(i.e.) 6months 19days and 1-11-91 to 26-12-92 (i.e.) 1year 01month 25days (i.e.) total 1year 8months and 14days at the time of my Voluntary retirement(i.e.)26-12-92 but not 3 years 9days as stated by R-4. The R-4 wrongly mentioned the above non qualifying service without specifically mentioning the actual periods(A-6).
6. I submit that R-4 admitted in his reply counter at para 5 of page 5 that I worked for 22years 01month and 11days minus 1year 8months 14days nonqualifying service by 26-12-92 is deducted the said periodfor qualifying service left is worked out as under.
- |                              |          |          |          |
|------------------------------|----------|----------|----------|
| a) Qualifying service as on  | <u>Y</u> | <u>M</u> | <u>D</u> |
| 26-12-92                     | 22       | 01       | 11       |
| (-)                          |          |          |          |
| b) Non qualifying service as |          |          |          |
| on 26-12-92                  | 1        | 08       | 14       |
|                              | <hr/>    |          |          |
| Therefore total qualifying   |          |          |          |
| service as on 26-12-92       | 20       | 04       | 27       |
|                              | <hr/>    |          |          |
7. I submit that still temporary service rendered from 1-6-70 to 30-6-70 and 1-3-71 to 14-11-71 (i.e.)9months 3days. Half worked out to 4months 18days to be added for pensionary benifits as per the Rly.Bd. orders inforce. Therefore the total qualifying service is 20yrs 4mbs 27days (+) 4months 3days = 20years 8months 27days.
8. I submit further still got leave at my credit as on 26-12-92 (i.e.) date of voluntary retirement is as under
- |         |   |         |
|---------|---|---------|
| a) LAP  | = | 8days   |
| b) LHAP | = | 224days |
|         |   | <hr/>   |
| Total   | = | 232days |
|         |   | <hr/>   |
- (i.e.) 7months 18days to be added. So 20years 8months 27days + 7months 18days if sanctioned and added the total qualifying service worked out to 21years 5months 3days (A-12).
9. I further state that a statement showing the full particulars of my service are herewith enclosed as Exh-I for kind perasal of the Hon'ble Tribunal.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

M.A.NO. of 1998

IN

O.A.NO.1561/97

BETWEEN:

J.D.INBANATHAN ..Applicant

AND

UOI represented by  
GM/SCRly/SC and others ..Respondent

Amendment petition U/R.34 of the GST.

Filed on - -1998.

Filed by the counsel for the Applicant

G.S. Rao, M.A., LL.B. (Spl)  
ADVOCATE.  
H. No: 24-2/1, Plot 83.  
Vijaydevi Nagar Colony  
Malkajgiri, Hyderabad-500047.

10. In view of the particulars stated at para 3 to 9 it is humbly prayed that para 3 at page 2 of the O.A. may please be amended to delete item 1 to 3 (i.e.)
- 1) Penalty order H/P 227/IV/93/Dt. 7-4-95 of removal by R-5
  - 2) Penalty order H/P 90/IV/95/364/Dt. 16-1-96 by R-5
  - 3) Penalty order H/P 90/IV/364/Dt. 11-11-96 by R-3.

and substituted as under as item 1 & 2.

1) LR.No.HP/579/IV/B/PRI, Dt. 1-2-93 of SR DPO/UBL.

2) LR.No.HP/579/IV/BRI, Dt. 19-07-94<sup>11-11-96</sup> of SR DPO/UBL

and also paras 9 and 10 at page 10 & 11 of the OA may please be amended to delete completely the prayer (i.e.) to quash the removal orders of R-3, 5 & 6 stated wherein and now allow to substitute as under:

- a) LR.No.H/P 579/IV/R.RI dt. 1-2-93 & 17-7-94 of Sr.DPO/UBL may please be quashed.
- b) To direct R-4 to sanction the leave of 8 days LAP and 224 days<sup>11-11-96</sup> LAP (i.e.) 7 months 18 days at the credit of the applicant as on 26-12-92.
- c) To direct the R-4 to accept the voluntary retirement of the applicant as on 26-12-92 and pay all the consequential retirement benefits and pass such other order/orders as the Hon'ble Tribunal may deem fit and proper in the interest of Justice.

*Verification*  
J. J. S. Inbanathan S/o Jai Paul, aged 45 years  
ex Boiler maker S.C. Railway Hubli R/O  
Today I do hereby verify that the contents  
of Para 1 to 10 are true on the legal advice  
and that I have not suppressed any material facts.

*Inbanathan*  
Deponent

Sworn and signed before me at  
Hyderabad on this the 11 day  
of July 1998.

*G. S. Rao*  
Advocate

*Advocate for the Applicant.*  
Advocate for the Applicant.

EX-1

O.A. 1561/97

I.

1. The Respondent admitted that the applicant put in 22years, 1month and 11days total service as on 26-12-92(i.e.) from the date of Voluntary Retirement. - A-6.
2. It is not clear from what date the 3years 1month and 2days were shown as non-qualifying service.

II. L.W.P.(i.e.) NON QUALIFYING SERVICE:      Years      Months      Days

1. 17-06-82 to 06-01-83	=	0	06	19
	(+)			
2. 01-11-91 to 26-12-92	=	1	01	25
<hr/>				
Total non-qualifying service upto voluntary retirement i.e. 26-12-92.	=	1	8	14

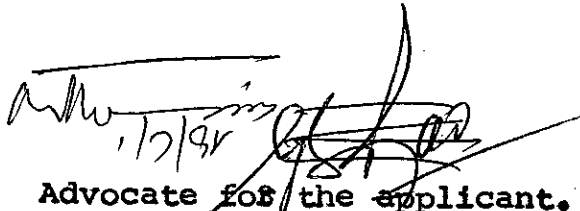
III. a) Total service rendered as on 26-12-1992		22	01	11
	(-)			
b) Non qualifying service		1	08	14
<hr/>				
Total qualifying service	=	20	04	27

IV. Add 50% Temporary service rendered from 1-6-70 to 30-6-70 and 1-3-71 to 14-11-71(i.e.) 9months 3days (half is 4months 18days).      (+)      0      4      18      -A-2.

V. Leave at credit as on voluntary retirement 26-12-92      (+)      0      7      18  
(a) LAP = 8days  
(b) LHAP = 224 days  
Total 7months 18days      =      -A-12.

Total qualified service(III+IV+V)      21      05      03

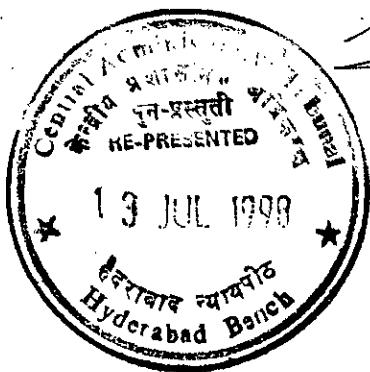
Therefore the applicant is eligible for all pensionary benefits.

  
Advocate for the applicant.

- 1) Amendment Petition to be filed
  - 2) Rule Provision made
  - 3) Sufficient no. of copies to be filed
  - 4) Vakalat with no objection from the Advocate on record to be filed.
- 2/7/98
- 14 days



All the objections raised from 1 to 4 since rectified.



*[Signature]*  
Advocate

Amendment Petition

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

M.A.NO. of 1998

IN

O.A.NO.1561/97

BETWEEN:

J.D.INBANATHAN

..Applicant

AND

UOI represented by

GM/ScRly/Sc and others

..Respondent

8 (3)

Amendment petition U/R. 24 of the CAT

Procedural rule 987

Filed on 1 - 7 - 1998.

Filed by the counsel for the Applicant.

*[Signature]*

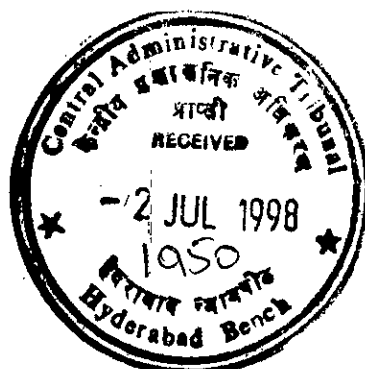
*[Signature]*

ADVOCATE.

H. No: 24-2/1, Plot 83.

Vimaladevi Nagar Colony

Malkajgiri, Hyderabad-500047.



*[Signature]*  
May 20 1998

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : : AT HYDERABAD

M.A.No. 531 of 1998

in

O.A.No. 1561 of 1997

Between:-

J.D. Imbunathan

.. APPLICANT

AND

Union of India,  
rep. by the General Manager,  
South Central Railway,  
Secunderabad and (5) others

.. RESPONDENTS

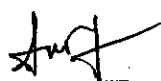
REPLY STATEMENT ON M.A.No.531 FILED ON BEHALF OF THE  
RESPONDENTS

I, A. Nagender Reddy, S/o Gal Reddy, aged 35 years, occupation Senior Divisional Personnel Officer, South Central Railway of Hubli Division do hereby solemnly affirm and state as follows:-

1. I am the Respondent No.4 and as such I am fully acquainted with all facts of the case. I am filling this Reply Statement on behalf of all the Respondents as I have been authorised to do so. The material averments in the O.A. are denied save those that are specifically admitted hereunder. The applicant is put to strict

Recd  
9/8/97  
3518

ATTESTED  
27/10/98  
सहायक कार्यालय अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.


  
DEPONENT  
वरिष्ठ मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

:2:


proof of all such averments except those that are specifically admitted hereunder:

2. At the outset, it is submitted that the present application for amendment of the prayer in main O.A. is not maintainable under law. The original O.A. was filed questioning the orders of revising, appellate and disciplinary authorities dt.11.11.96, 16.1.96 and 7.4.95 respectively. Whereas under the present M.A., the applicant is seeking to substitute the said impugned orders to that of Lr.No.H/P.579/IV/RR-I, dt. 1.2.1993 and 17.7.1994. Thus the entire nature of the O.A. will be changed if the present M.A. is allowed in the sense that the cause of action the O.A. was within the time limit prescribed under the Administrative Tribunal Act, whereas under this M.A., the orders that are going to be impugned are beyond the period of limitation prescribed under the Administrative Tribunal Act. Moreover under the present M.A. the applicant is also seeking to amend the original prayer substituting with prayer to direct Respondent No.4 to sanction the leave and accept the voluntary retirement which has no relevance to the pleadings of the applicant in the O.A. Thus the applicant is seeking to introduce a new cause of action by way

ATTESTOR

  
सहायक फ़ार्मिक अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

  
वरिष्ठ मंडल फ़ार्मिक अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

of Amendment application which is not permissible under law. It is, therefore, respectfully submitted that the present M.A. is liable to be dismissed lumini.

3. Without prejudice the above contentions the Respondents submit their reply to the contents of M.A. as under:

4. In reply to paras 3 and 4, it is submitted that the applicant's contention as Substitute Khalasi from 10.6.70 to 30.06.70 does not count for reckoning either Date of Appointment or Qualifying service since the same is not continuous and there is a break of service from 1.7.70 to 28.2.71.

Further he is re-engaged as substitute from 1.3.71 and continued as such upto 14.11.73, i.e., till his regularisation. As per rules existing then, he was granted temporary status w.e.f. 1.9.71, i.e., on completion of 180 days in terms of Railway Board's Circular No.41/67 (copy enclosed as Annexure R-1), from which date his service will be counted for pension. As such, for the purpose of pension/counting of service his date

ATTESTOR

*[Signature]*  
22-10-78  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

*[Signature]*  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

:4:


of appointment will be 1.9.71, i.e. the date of grant of temporary status but not 15.11.71 as claimed by the applicant.

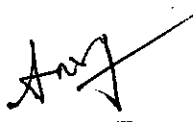
His services were further regularised w.e.f. 15.11.73 and his date of appointment is recorded as 15.11.73 in his service record for seniority and other benefits. (copy of S.R. enclosed as Annexure R-II).

5. In reply to paras 5 and 6, it is submitted that the applicant has put in a total service of 21 years 3 months and 25 days as on 26.12.92, i.e., the date of his voluntary retirement application, from the date of his attaining temporary status, i.e., 1.9.71. Brief calculation can be seen as under:

	<u>Years</u>	<u>Months</u>	<u>Days</u>
Date of V.R. application	92	12	26
Date of appointment (date of temporary status)	71	09	01
	21	03	25

i.e., 21 years, 3 months and 25 days.

ATTESTOR  
  
सहायक निमित्त अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

  
DEPONENT  
वरिष्ठ मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

:5:

The question of adding half the no. of days of temporary service to the qualifying service as contended by the applicant does not arise since the computing of qualifying service has been done right from the date of his attaining temporary status ie., 1.9.71 followed by his regularisation, ie., 15.11.73 and till the date of V.R. application.

The periods of non-qualifying service to the applicant is as follows:

<u>PARTICULARS</u>	<u>FROM</u>	<u>TO</u>	<u>NO. OF DAYS</u>
Absent	08.05.73	19.05.73	12
Absent	17.06.82	01.06.83	350
Suspension	25.12.87	05.01.88	12
Absent	02.11.91	26.12.92	420

As such the total non-qualifying service works out to 794 days. In other words, it is 2 years, 2 months and 4 days. The applicant herein has suppressed the information as to the periods of his unauthorised absence/suspension and thus stated the non-qualifying service as 1 year, 8 months and 14 days which is not correct. The applicant was absent and not on leave without pay as stated by him.

ATTESTOR  
सहायक कार्यालय अधिकारी  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT  
परिवर्तन मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

By taking the above points into consideration the actual qualifying service of the applicant is worked as under:

	<u>Years</u>	<u>Months</u>	<u>Days</u>
Total service as on 26.12.92	21	03	25
Total Non-qualifying service	02	02	04
<hr/>			
Total qualifying service	19	01	21
<hr/>			

6. In reply to para 8, it is submitted that it is a fact that the applicant had to his credit 8 days LAP and 224 days LHAP as on 26.12.92. But this period of leave cannot count for qualifying service unless it has been sanctioned by the competent authority.

Competent Authority has regretted the applicant's request for leave (Copy enclosed as Annexure R-III).

In all the actual qualifying service of the applicant is only 19 years, 1 month and 21 days which is less than the required qualifying service, i.e., 20 years for accepting the voluntary retirement, hence the applicant's claim for voluntary retirement cannot be accepted.

The applicant vide his application dt. 16.12.91

ATTESTOR

*[Signature]*  
सहायक कार्यालय अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

DEPONENT

*[Signature]*  
वरिष्ठ मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

(copy enclosed as Annexure R-IV) while requesting for acceptance of resignation has clearly stated that since he is not eligible for Voluntary Retirement, he has come to the conclusion of resignation.

In view of vigilance case pending against him (copy enclosed as Annexure R-V) the applicant's request for acceptance of resignation as requested vide his application dt. 16.12.91 (copy enclosed as Annexure R-IV) was not agreed by the competent authority (copy enclosed as Annexure R-VI).

7. For the reasons stated above, the applicant has not made out any case either on fact or on law and there is no merit in the O.A. It is, therefore, prayed that this Hon'ble Court may be pleased to dismiss the O.A. with costs and pass such further and other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

DEPONENT

दरिष्ठ मंडल कार्यालय अधिकारी,  
Sr. Divisional Personnel Officer,  
दक्षिण मध्य रेलवे, हुबली.  
South Central Railway HUBLI.

Solemnly and sincerely affirmed

this 27 day of October 1998

and he signed his name in my presence.

Before me

ATTESTOR

सहायक कार्यालय अधिकारी,  
Assistant Personnel Officer,  
दक्षिण मध्य रेलवे हुबली.  
South Central Railway HUBLI.

Estt. Serial No. 41/67

Circular Letter No. P (R) 564. dated 29-12-66

Copy of Railway Board's letter No. E(NG)-65LRI-1 dated 1.9.1965 is forwarded for information and guidance.

Copy of Railway Board's letter No. E(NG)-65LRI-1 dated 1.9.1965.

Sub: Substitutes-Engagement of Grant of temporary status to.

Reference directives issued by the Railway Board from time to time in regard to the engagement of substitutes and the basis of their remuneration. The Board have had under consideration the question of specifying the circumstances under which the substitutes should be engaged on the Indian Railways. In supersession of all earlier orders on the subject, the Board have decided to lay down the following comprehensive instructions which should be given immediate effect, i.e., from the date of issue of this letter.

2. "Substitutes" refer to persons engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts falling vacant because of absence on leave or otherwise of permanent or temporary railway servants and which cannot be kept vacant.

3. Ordinarily, there should be no occasion to engage substitutes having regard to the fact that practically in all categories of railway servants leave reserve has been provided for. Occasions may, however, arise when owing to an abnormally high rate of absentees the leave reserve may become inadequate or ineffective e.g. heavy sickness, etc., or where the leave reserve is available, but it is not possible to provide the same, say at way side station. On such occasions, it may become absolutely necessary to engage substitute even in vacancies of short duration, as otherwise, the railway service may be adversely affected.

4. Substitutes should as far as possible, be drawn from a panel of suitable candidates selected for Class III and IV posts and should be engaged subject to the observations made in para 3 above, only in the following circumstances:-

- i) Against regular vacancies of unskilled and other categories of Class IV staff requiring replacement for which arrangements cannot be made within the existing leave reserves.
- ii) Against a chain vacancy in the lower category of Class IV Staff arising out of the incumbent in a higher Class IV category being on leave where it is not possible to fill the post from within the existing leave reserve, and where otherwise, the railway services will be affected.
- iii) Against posts in categories for which no leave reserve has been provided.

iv) Against vacancies in other circumstances specified by the Railway Board from time to time.

5. Substitutes so engaged should be paid regular scales of pay and allowances admissible to such posts irrespective of the nature or duration of the vacancy.

6. Substitutes should be afforded all the rights and privileges as are admissible to temporary railway servants on completion of six months continuous service. Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months and their services should be treated as continuous for all purposes except seniority on their eventual absorption against regular posts, after selection.

7. The break in service arising out of following cases of absence will not be considered as break, in service for the purpose of determining six months' continuous employment referred to in para 6 above, viz:

- (a) the periods of absence of a substitute who is under medical treatment in connection with injuries sustained on duty covered by the provisions under the Workmen's Compensation Act;
- (b) authorised absence not exceeding 15 days during the preceding six months;

Note:- Unauthorised absence or stoppage of work will be treated as a break in continuity of employment.

- (c) days of rest given under the Hours of Employment Regulations or under the Statutory Enactments and the days on which the Establishment employing the substitute remains closed will not be counted against the limit of 15 days authorised absence referred to above. The term "authorised absence" for this purpose covers permission granted by the Supervisory Official in charge to be away from the work for the period specified;
- (d) periods involved in journey etc., for joining the post on transfer from one station to another station or within the same station itself, in the exigencies of service but not exceeding in any case normal period of joining time permissible under the rules.

8. The conferment of temporary on the substitutes in accordance with para 6 above does not entitle them to automatic absorption/appointment to railway service unless they are in turn for such appointment on the basis of their position in select lists

ANNEXURE

R-1

89

and/or they are selected in the approved manner for appointment to regular rail posts.

9. A register should be maintained for recording the names of all substitutes wherever employed according to the unit of recruitment, e.g., Division, Work-P.W.I's lengths etc., strictly in the order of their taking up substitute employment at the time of their initial engagement.

10. Substitutes who have already completed six months continuous service should be afforded with temporary status with effect from the date of issue of this letter.

11. Substitutes now working on the Indian Railways on Casual labour terms should be brought on to the regular scale of pay and allowances applicable to the post the date of issue of this letter, provided it is permissible to engage them in accordance with para 3 and 4 above and they should likewise be afforded temporary status in accordance with para 10 above.

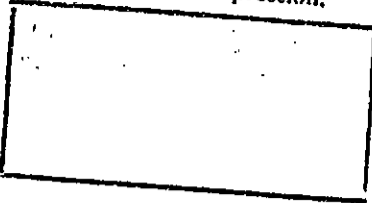
12. Please acknowledge receipt.

27/10/68

## PARTICULARS OF SERVICE

G.S. 3/1.

Left Thumb Impression.



Signature of Employee.....

Date.....

Signature of Witness.....

Designation.....

Date.....

Name (in full) D. N. Kadacham, T. Nagabalan Ticket No.....Father's Name T. A. PaulPermanent Address T. Nagabalanc/o. E. S. Han. RaniPresent address Tamil Teacher, T. Nagabalan (Post), HospetNationality Indian

Caste.....

Religion XianDate of birth (in words) 28.1.1953 (Twenty eighth Jan. Nineteen fifty three)Medically examined on wide Amolusl. m. n. B. R. / 692 Class B. I.Height 5.6.70 ft.....

Inches.

Marks of Identification (1) A. Scar on Left Lower Jaw(2) A. burnt Scar, 10. N.P. Side on Rt. & wristDate of appointment Swat# 15-11-73Capacity APL Sub. / K. H. Lab. / HPT on pay Rs. 70 in scale 70-85Place of Appointment HospetEducation Passed S.S.L.C. Exam

Speaks..... Reads..... Writes.....

## PREVIOUS SERVICE

With	From	To	Nature of work

Date 7-2-74Date of Leaving service 7/2/74 Signature & Designation of Attesting Officer Asst Personnel OfficerCause of leaving service S.S. 94 M. E. 1

Length of service.....

Date of which "Service certificate" if due issued.....

Character, Conduct and abilities as shown in Service Certificate.....

Date on which gratuity/special contribution to P. F. if due paid.....

Asst Personnel Officer

South. Central Railway HUBLI.

Signature &amp; Designation of Attesting Officer.

Note.—Date of Birth given by an employee at the time of first appointment will not be altered.

CENTRAL RAILWAY

No. H/P.420/IV/Per/Regtr/II

To LG/Hubli

CCtr

LG/Hubli

Divisional Office,  
Personnel Branch,  
Hubli, Dt:21/10/1991.

Annexure III

28

R3

125

Sub: Grant of 90 days <sup>LHAP</sup> ~~CAF~~ From 1.11.91 To on Work.  
in favour of Shri. T. D. Tribhuvan  
Designation B1 Mahar.  
Station LG Office Hubli

Ref: Party's application dated 16.10.91.

Reference to Party's letter cited above, his request for the grant of 90 days <sup>LHAP</sup> ~~CAF~~ is regretted.

Please note and notify the party, accordingly.

(By orders of AME/Loce/UG).

(Party May apply for CAF if eligible.)

[Signature]  
/DIVL. RAILWAY MANAGER/HUBLI.

T. C. K.

[Signature]  
Assistant Personnel Officer,  
South Central Railway HUBLI.

Hubli.  
Dt: 16/12/91.

From,

J. D. INBANATHAN,  
B.M. T.No. 326,  
HUBLI.

To,

The Sr. LPO/S.C.Rly.  
HUBLI.

Through Loco Foreman Loco shed S.C.Rly. Hubli.

Respected Sir,

Sub: Request for acceptance of Resignation.

I the under signed beg to bring a few lines to your kind consideration please.

I was called by God to do His ministry as per the reference from the Bible.

- 1) OLD TESTAMENT. II CHRONICLES CHAPTER : 29 VERSES: 11  
2) NEW TESTAMENT. II THOMAS CHAPTER : 4 VERSES: 5

Hence I have decided to leave the job and go for the Gospel preaching because our LORD JESUS CHRIST second coming is very soon.

Since I am not eligible for the voluntary retirement, and after deep consideration on all aspects I came to the conclusion to resign from Railways.

I will not come up with a request for re-embursement or re-appointment after my resignation is accepted.

Thanking you,

Yours faithfully,

*J. D. Inbanathan*  
(J. D. INBANATHAN)

Boiler Maker,  
B.M. T.No. 326,  
Loco shed,  
HUBLI.

Submitted in Duplicate.

Copy to DMG/Loep/WBL

Present Address:

J. D. INBANATHAN  
ZION PRAYER HOUSE  
Teachers Colony,  
VANIYAMBADI Post, N.A. DIST.  
TAMIL NADU.

PF No 326 of 17/12/91

ForWARDED to Sr LPO/WBL

91/12/91 for disposal please

*[Signature]*  
Loco Foreman/Hubli

*[Signature]*  
28/10/98  
South Central Railway HUBLI

No: H/CS/V/LOCO/17/91.

Annexure V R-5  
CONFIDENTIAL

NOTE

20/5/92

Divisional Office  
General Branch

Hubli 20-5-92

153

Sub: Vigilance case against Sri. Inbanathan  
Boiler Maker LF/O/UBL

Ref: LF/UBL's letter No: G.116/A/sub-litng  
Dtd dated 11-5-92 →

LF/UBL vide his letter cited above, has  
advised to this office, that the above named  
employee has submitted his resignation to  
Sr: DPO/Office/UBL.

It is hereby brought to your  
notice that the employee has been involved  
in vigilance case and the same is pending.  
The employee is away from duty.

This is for your kind information

Signature

OS/Gr II/condi/UBL

TO

OS/Cadre/P branch/UBL

Secy-52

20/5/92

Signature

South Central Railway Hubli

In the C. A. T.  
Byd Bench

MA 531/98  
in

MA 1561/97

Reply Statement



Filed by—

N. R. Denny

may be filed  
20/10/98

(13)

Annexure VI

R-6

152

South Central Railway

Disposal of  
Resigned by  
Habit  
Date: 15.01.14

No. H/P 579/IV/ R.R.E.I

Shri J. D. Inbanathan

Senior Master / I / 122

(thru L+LRL)

Subj: - Acceptance of resignation

In view of disciplinary action initiated against you from vigilance angle your request for acceptance of resignation vide your letter dtd 16.12 has not been agreed to by the competent authority.

Please note.

for Sr DRC / I / E

Approved  
27/1/14

see 53 also

South Central Railway

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD

M.A. No.531 of 1998

IN

O.A. No.1561 of 1997

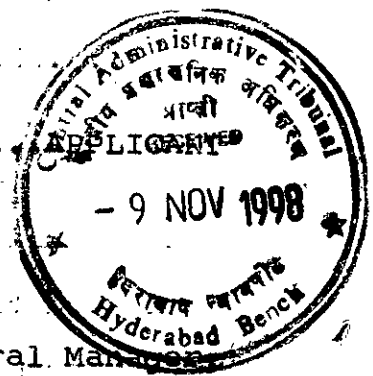
Between :

J.D.Inbanathan

AND

Union of India,  
Rep. by The General Manager,  
South Central Railway,  
Secunderabad & (5) others.

..RESPONDENTS



Received  
9.11.98  
H.N.R. Dayal

Filed on : .11.1998

Address of the Advocate:

G.S. Rao, M.A., LL.B. (Spl)  
ADVOCATE.  
H. No: 24-2/1, Plot 83.  
Vimaldevi Nagar Colony  
Malkajgiri, Hyderabad-500047.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

M.A.No.531 of 1998

in

O.A. No.1561 of 1997

Between:-

J.D.Imbunathan

...APPLICANT

AND


Union of India,  
rep. by the General Manager,  
South Central Railway,  
Secunderabad and (5) others

...RESPONDENTS

REJOINDER TO REPLY STATEMENT OF R-4 FILED ON 30.10.98  
IN M.A.531/98 IN O.A. 1561 OF 1997.

For the reasons stated in the accompanying rejoinder the applicant humbly prays that this Hon'ble Tribunal may be pleased to quash the R-4 letters dated 1.2.93 and 17.7.74, and <sup>11-11-96</sup> further direct R-4 to sanction leave at his credit, count 50% of the substitute service and also accept voluntary retirement from 26.12.1992 and pay all the consequential retiral benefits and pass such other order/orders as the Hon'ble Tribunal may deem fit and proper in the circumstance of the case and also in the interest of natural justice.

DATE : 11.11.1998

  
COUNSEL FOR THE APPLICANT.

HYDERABAD.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

M.A.NO. 531 of 1998

IN

O.A.NO. 1561 of 1997

Between:..

J.D.Inbanathan  
R/o. Bethel Prayer House No.31/A  
Govinda Swamy Street, Jolarpetta  
Vellor, CHENNAI - T.N. 635851.

...Applicant

AND

1. Union of India represented by the General Manager, South Central Railway, Secunderabad.
2. Chief Personnel Officer, South Central Railway, Secunderabad.
3. Addl. Divisional Railway, Manager, South Central Railway, Hubli, Dharward, Dist. Karnataka.
4. Sr. Divisional Personnel Officer, South Central Railway, Hubli, Dharward Dist. Karnataka.
5. Sr.Divisional Mechanical Engineer, South Central Railway, Hubli, Dharward Dist. Karantaka.
6. Divisional Mechanical Engineer, South Central Railway, Hubli, Dharward, Dist. Karantaka.

... Respondents

REJOINDER TO REPLY STATEMENT OF R-4 FILED ON 30.10.98  
IN M.A.531/98 IN O.A. 1561 OF 1997.

I J.D.Inbanathan S/o Jaya Paul aged 45 years occupation evangelist bethel prayer house 31/A R/o Jolar Petta north Arcot Dist. 635851 of Tamil Nadu do hereby Solemnly affirm and state as Follows:-

1. I am the applicant as such I am fully acquainted with the facts <sup>of</sup> ~~for~~ the case. The material averments in reply to O.A and M.A are denied save those that are specifically admitted here under. The R-4 is put to strict proof of the all such averments exept that are specifically admitted hereunder.

2. Regarding Para 2 of the reply statment:-

It is submitted that the applicant is at liberty to amend or add any matter to the O.A. as per the Rules in force before the orders of the Hon'ble Tribunal in terms of the Rule 12 (6) of the Central Administrative Tribunal (procedure) Rules 1987. Therefore the objection raised by the R-4 have no legs to walk in such unwanted pleas quite contrary to the law and rules in force.

3. Regarding Para 3 and 4 of the reply statment:-

It is submitted that the applicant have no objection to raise regarding the service of substitute khalasi from 10-06-70 to 30-06-70 (i.e) 20 days but the applicant was recruited to the post of loco khalasi in sclae Rs 70-85 in a regular vacancy. His appointment was on compassionate grounds due to his father sudden demise while working in Railway service. The applicant father worked as a engine fitter from 27-09-1947 to 14-08-1969 (service certificate enclosed as A-1. The applicant<sup>was</sup> sent for medical examination to AMO/UBL who examined him and made fit in B-1 category and issued medical fitness certificate in his letter No.AMO/UBL M.C No. BCR/692 dated 27-05-70/ 3-06-70. Further it is submitted that the applicant was appointed on 01-03-1971 against regular vacancy of loco khalasi and contineously working without break the service should have been taken from the date of appointment (i,e) 01-03-1971 onwards only, it is not known why the service from 01-03-1971 to 01-09-1971 (i.e) 6 months period is taken as substitute khalasi when the applicant appointed against regular vacancy his name should have been taken from 01-03-1971 but not 01-09-1971 it is clear violation of establishment

rules in force. It <sup>is</sup> submitted that the service of the applicant should have been regularised W.E.F 01-03-1971 instead of 15-11-1973 as the same is contradictory to the rules in force. Hence the same was strongly rebutted.

4. Regarding para 5 of the reply statement:-

It submitted that the total service rendered by the applicant as admitted by the R-4 from the date of 01-09-1971 to 26-12-1992(i.e) from the date of V/retirement believing to be true, the R-4 should account for the 6 months service from 01-03-1971 to 01-09-1971, actually the ~~xxxx~~ service from 01-03-1971 to be taken ~~for~~ for regularization as he is continuously working without break.

Taking granted 6 months service as <sup>a</sup> substitute for counting of service for the purpose of <sup>50% to be taken for</sup> pensionery benefits that is 3 months to be added to qualifying service in terms of letter No.F 12 (1) EV/68 dated 14-05-1968 from the ministry of Finance Railways Board New Delhi where in it was stated that the President is pleased to decide that half of the service paid from contingencies will be allowed to count towards pension. Therefore 01-03-1971 to 01-09-1971 that is 6 months half is 3 months to be added to the said qualified period of 19 years 1 month 21 days is ~~is~~ works to 19 years 4 months 21 days.

5. Regarding para 6 of the reply statement:-

It is submitted that R-4 admitted at para 6 a t page 6 that the applicant have 8 days LAP and 224 days LHAP (i.e) total 232 days leave at his credit that is 7 months 22 days. If the leave is sanctioned as requested by the applicant then 7 months 22 days

is to be added to 19 years 4 months 21 days is worked out to 20 years 13 days to substantiate this it is stated that it was held by the ~~ATC~~ <sup>ATC 1996 (34) vol 34</sup> Hon'ble CAT/Jodhpur in O.A.No 1594/1996 dated 27-02-1996 at page 30 to 38 the observations of the Hon'ble Justice Ramaswamy and Jeevan Reddy J.J of the <sup>court</sup> apex<sup>n</sup> is as under :-(under rule 25 of the swamys FR & SR part III leave rules ) it has been decided as follows

Rule 25 absence after expire of leave:- unless the authority competent to grant leave extends the leave, a government servant who remains absent after end of the leave is entitled to no leave salary for the period of such absence and that period shall be debitted against his leave account as though, if were half pay leave to the extent such leave due, the period in excess of such leave<sup>is due,</sup> being treated as extraordinary leave. Therefore the applicant is eligible for sanction ~~x~~ of the leave at his credit in view of the said obserations of the apex court.

It is further submitted that the competent authority is utterly failed to observe the rules in force for sanction of leave at credit of the applicant. As per the leberalised leave rules, the leave is an asset of the employee when applied it shall be sanctioned without any hinderance to the applicant.

It is submitted that R-4 is intentionally created bad impression against the applicant by saying absenteeism and a little bit of 12 days suspension taking the advantage of this to creat more trouble with bias mind for the reasons best know to the R-4.

The applicant is a permanent Railway servant who put up more than 22 years of service. Due to family troubles the applicant absented (C) from service for the said period to the reasons beyond his control. The suspension of 12 days is due to engine failure on account of mechanical defects. The R-4 should not take advantage of the such situation for disadvantage of the applicant. It is a fact that it is not possible to ever employee to work perfectly all the service. It is quite common sometime to face certain problems in service, by it self cannot judge that the employee is always bad. The employee is the sufferer if absented from duty as no pay will be paid.

It is submitted that his application dated 16-12-1991 asked resignation duly vexed by the harrasment by the respondents in not accepting the V/retirement in terms of para 67 of Railway services (pension rules 1993 at any time after a railway servant has completed 20 years qualifying service, he may by giving notice of not less than 3 months in writing to the appointing authority retire from service.

It was held by Hon'ble CAT/Bombay ATC 1997 Page 219(B) resignation letter can be treated as V/Retirement U/R 1993 , 67(1) pension rules of Railways service.

Further it is submitted that the vigilance case is not for the any affence, it is only due to not vacating the railway quarters.

In The Central Administrative  
Tribunal Hyderabad  
Bench at Hyderabad

MA no 531 of 1998

in

OA 1561 of 1997

Between -

J. D. Inbarathan

Applicant

And

UOI represented by

Gm/Sch/Sec

Respondent



Filed

28

Address of Advocate

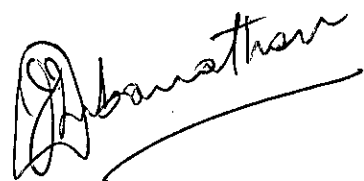
G-S-HQ Hyderabad  
lt. no 24-2/1 Plot 83  
Mimalandur road  
Malkajgiri HYB 50

may 88  
9/11/98

I was on leave from 01-11-1991 the Railway ~~qrs~~  
is in my possession upto my V/retirement (i.e) 26-12-1992  
and the same was vacated on 17-12-1991 as per<sup>rules</sup> in force.  
I was not committed any offence nor guilty of any  
crime by mere absence from duty is not a serious  
issue. The R-4 elaborated the situation taking advantage  
of my absence from duty and unnecessarily misleading  
the Hon'ble Tribunal for no fault of mine to gain~~the~~ the  
favour from the Hon'ble Tribunal. It is nothing but  
observing unfair labour practice on the part of R-4.

In view of the details it is humbly prayed that  
the Hon'ble Tribunal<sup>may be</sup> pleased to quash the R-4 letters  
dated 01-02-1993 and 17-07-1994<sup>11-11-96</sup> and further direct R-4  
to act as per the rules and law

- a) for counting 50% substitute service. //
- b) For sanction of leave at credit that is 8 days LAP  
224 days LHAP.
- c) and also accepts V/retirement from 26-12-1992.
- d) to pay all consequential retiral benefits such as  
gratuity, and other pensionary benefits.
- e) pass such other orders /orders as the Hon'ble  
Tribunal may deem fit and proper in the interest of  
Justice.



( Deponent)

Solemnly and sincerely affirmed

this 9th day of NOV 1998

and he signed his name in my presence.

Identified by G.S. New Ashon

Before Me

  
ADVOCATE

MA No. 531/98

OP. 1561/97

24.7.98

Heard Mr G. S. Rao  
Notice to the Respondents  
to file a reply to  
the OA within four  
weeks. List it  
Hereafter.

Jr.  
VBSJP  
MCA

8/24  
HARP  
MCA

Notice in MA  
21.8.98

01  
27/7/98

255  
29/7/98

4/9/98

At the request for the  
learned standing counsel for  
the Respondents, two weeks  
time is granted for filing  
counter. To be posted  
on 18/9/98.

8/24  
HARP  
MCA

HOHNS  
VC

ORIGINAL

बेंच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH, HYDERABAD

M.A.No. 531 of 1998

IN

O.A.No. 1561 of 1997

Amendment Petition

Mr. P. Rathaiiah

COUNSEL FOR THE APPLICANTS.  
AND

Mr. N. R. Deva Raj

Sr.ADDL. STANDING COUNSEL FOR C.G.R.Y.

ms 531 p2  
at 1561 p2

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18/9/88

Letter on 23/9/88 at  
request of applicants and.

9/10/88  
HARP  
M(1)

HDPHNT  
VC

23.9.98

I heard Mr. G.S. Rao  
for the applicant and  
Mr. N.R. Devraj for the  
respondents.

Four weeks <sup>time</sup> for  
reply to the M.A. List  
is thereafter

9/10/88  
HARP  
M(1)

HDPHNT  
VC