

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00217/2018

Thursday, this the 01st day of March, 2018

CORAM

**Hon'ble Mr. U.Sarathchandran, Judicial Member
Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member**

G. Gnanaguru,
Aged 48 years, S/o. Gurusamy,
Loco Pilot (Mail)/ Nagercoil Junction/
Southern Railway/ Trivandrum Division,
Residing at: 14/4/4-7, Guru Nivas,
Brindavan Nagar, Vallan Kumaran Vilai,
Kottar Post, Nagercoil – 629 002.

..... **Applicant**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. Union of India,
Represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 600 003.
2. The Chief Operations Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 600 003.
3. The Sr. Divisional Electrical Engineer (Operations),
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
4. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
5. The Additional Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.

..... **Respondents**

(By Advocate – Mr.S.Radhakrishnan)

This Original Application having been heard on 01.03.2018, the Tribunal on

the same day delivered the following:

ORDER (ORAL)

Per: Mr. U. Sarathchandran, Judicial Member:

Heard the learned counsel appearing on both sides.

2. The applicant is presently working as Loco Pilot (Mail) in the Trivandrum Division of the Southern Railway has approached this Tribunal challenging the A.1 penalty advice imposed on him subsequent to the passing of Annexure A.13 order by this Tribunal. On the earlier occasion he had challenged the penalty imposed on him on the ground that the Disciplinary Authority who imposed the penalty was not competent. This Tribunal accepting the aforesaid contention disposed of the O.A. setting aside the punishment ordered by the then Disciplinary Authority and directing another “*competent officer to be appointed as Disciplinary Authority by the respondents (competent among them)*”. Accordingly, Annexure A.1 order came to be passed by the newly appointed Disciplinary Authority who is the ADRM. The applicant has challenged Annexure A.1 in this O.A. on the various grounds mentioned in the O.A.

3. We have heard Mr. T.C.Govindaswamy learned counsel for the applicant and Mr. S. Radhakrishnan, learned Standing Counsel for the Railways on the issue of interim relief sought in this O.A. We have also perused the record.

4. After hearing both sides we note that the impugned Annexure A.1 penalty advice is dated 5.2.2018. The applicant has approached this Tribunal without exhausting the alternate remedies I.e. appeal and revision as provided in Railway Servants (Disciplinary and Appeal) Rules 1968.

5. We feel that all the grounds mentioned in the O.A. can be raised before the appellate authority as well.

6. The applicant seeks interim relief on the ground that by the impugned Annexure A.1 order his pay has been substantially reduced to the scale of Rs. 64100/- in level 6 of Pay Matrix of 7th CPC for a period of five years w.e.f 1.3.2018 with consequential postponement of future increment and loss of seniority as well.

7. As the applicant has not approached this Tribunal after exhausting the immediate alternate remedy of appeal available to him, we dispose of this O.A. with a direction to the respondents to consider the appeal (for which a time limit of 45 days from the date of receipt of Annexure A.1 order has been prescribed in Annexure A1 order). We further direct the respondents to dispose of the appeal within a period of two months from the date of receipt of such appeal and that till the disposal of that appeal, the Annexure A.1 order shall not be put into effect.

8. Ordered accordingly. No order as to costs.

(MR.E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U.SARATHCHANDRAN)
JUDICIAL MEMBER

sj/*

List of Annexures of the applicant

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| Annexure A-1 | - | A true copy of Penalty Advice bearing No. V/E OP/28/GG dated 05.02.2018, issued by the 5 th respondent. |
| Annexure A-2 | - | A true copy of report submitted by the applicant dated 28.07.2008. |
| Annexure A-3 | - | A true copy of Major Penalty Memorandum of Charges bearing No. V/E OP/28/GG dated 14.08.2008 issued by one Shri. N. Balaji who was the incumbent of the office of the 3 rd respondent. |
| Annexure A-4 | - | A true copy of representation submitted by the |

- applicant's defence counsel dated 09.10.08 to the IO.
- Annexure A-5 - A true copy of proceedings of the inquiry.
- Annexure A-6 - A true copy of Inquiry Report from the 3rd respondent along with a communication bearing No. V/E OP/28 GG dated 11.12.08.
- Annexure A-7 - A true copy of representation dated 28.12.08, addressed to the 3rd respondent.
- Annexure A-8 - A true copy of order bearing No. V/E OP/28/GG dated 21.01.2009, issued by the 3rd respondent.
- Annexure A-9 - A true copy of detailed appeal dated 28.01.2009, submitted to the 4th respondent.
- Annexure A-10 - A true copy of order bearing No. V/P.227/A/2009/21/ EI(OP) dated nil May 2009, issued by the 4th respondent.
- Annexure A-11 - A true copy of revision petition dated 21.05.09, submitted to the 2nd respondent the Chief Operations Manager.
- Annexure A-12 - A true copy of order bearing P(A)/94/2010/892 dated 27.01.11 communicated by the Assistant Personnel Officer/Southern Railway/Trivandrum Division under letter bearing No. V/P.227/GI/HQ/Vol. XI dated 03.02.2011.
- Annexure A-13 - A true copy of order dated 28 Jul 2016 in OA No. 940/2013 rendered by this Hon'ble Tribunal.
- Annexure A-14 - A true copy of communication bearing No. V/E OP/28/ GG dated 08.11.16, issued by the 3rd respondent.
- Annexure A-15 - A true copy of representation dated 28.11.16, submitted to the 3rd respondent.
- Annexure A-16 - A true copy of Office Order bearing No. 04/2017/ Elec (OP) dated 06.02.2017, issued by the Divisional Personnel Officer, Southern Railway, Trivandrum Division.
- Annexure A-17 - A true extract of Rule 7 of the RS (D&A) Rules, 1968 as published in Bahri's Compilation of RS (D&A) Rules, 1968, along with Schedule I, II and II.

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