

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00526/2019

Dated Wednesday the 10th day of April Two Thousand Nineteen

**CORAM: HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

D. Ashok Kumar
No. 1, 5th Circular Road
Jawahar Nagar, Chennai 600 082.

... Applicant

By Advocate M/s. T.N. Sugesh

Vs

1. The Union of India
Rep. by the General Manager
Southern Railways, Chennai – 600 003.

2. The Chief Commercial Manager (CCM/PS)
Southern Railway, Park Town
Chennai 600 003.

3. The Additional Divisional Railway Manager-II
Chennai Division
Personnel Branch, Southern Railways
Park Town, Chennai – 600 003.

4. The Senior Divisional Commercial Manager
Chennai Division, Southern Railways
Park Town, Chennai – 600 003.

5. The Chief Personnel Officer
Southern Railways, Chennai – 600 003.

... Respondents

By Advocate Mr. P. Srinivasan

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following relief :

"To call for the records relating to the impugned order of the second respondent in No. P(A)/86/2018/733 dated 09.01.2019 (served on 12.03.2019), modifying the punishment imposed by the 3rd respondent to that of stoppage of increment for a period of twelve months with cumulative effect and the order of the third respondent herein in order No. M/P-86 (A)/DAK/DAR/2018 dated 09.05.2018 and the order of the fourth respondent herein in order No. M/C/415/DAR/1/17 dated 09.03.2018 and quash the same and direct the respondents to grant the increments due and payable to the applicant and to grant the full pay for the month of December 2016 and for the period from 06.01.2017 to 10.03.2017 and grant him all attendant benefits and thus render justice."

2. The applicant is aggrieved by the impugned orders passed by the disciplinary, appellate & revision authority imposing a penalty on him for unauthorised absence from 05.12.2016 to 27.12.2016 without obtaining prior sanction of leave or following the Railway Medical Rules. Initially, the disciplinary authority had imposed a penalty of stoppage of increment for a period of 35 months without cumulative effect which was reduced by the appellate authority to 24 months without cumulative effect. However, the impugned order now passed by the revision authority seeks to enhance the penalty of stoppage of increment for a period of 12 months with cumulative effect which could not be done without giving due opportunity to the applicant.

3. It is submitted that there was a contradiction in the impugned order itself as it is stated that the applicant's case was considered leniently and, therefore, the punishment was modified for a period of 12 months with cumulative effect. The penalty could not be enhanced by a more lenient consideration of the

applicant's case and as such, the impugned order was untenable, it is contended.

4. Mr. P. Srinivasan takes notice for the respondents.

5. On perusal, it is seen that the applicant had been imposed with a penalty of stoppage of increment for a period of 35 months initially which was without cumulative effect. It was reduced to 24 months without cumulative effect by the appellate authority. The impugned order passed by the revision authority states that as the applicant had applied for leave due to child birth in his family, the case was considered leniently and the punishment modified as stoppage of two increments for a period of 24 months with cumulative effect. As such it appears to be a typographical error as probably what was intended was reduction of the penalty to a stoppage of increment for a period of 12 months without cumulative effect.

6. Counsel for the applicant at this stage would pray for the matter be disposed of with a direction to the respondents to clarify the order. It is also urged that the competent authority may show further leniency considering that it has already been admitted that the applicant had applied for leave and it was due to unavoidable circumstances.

7. In the above background and submission made on behalf of the applicant, we deem it appropriate to dispose of the OA with a direction to the 2nd respondent revision authority to clarify his Annexure A16 order dt. 09.01.2019 and also consider if the request of the applicant for further reduction or waiver of the penalty by condonation of the absence could be acceded to while passing

a revised order in this regard. The whole exercise shall be completed by the respondents within a period of two months from the date of receipt of a copy of this order. It is clarified that we have not entered into the merits of the case except to surmise that the reduction in penalty 'with' cumulative effect was perhaps, unintended.

8. The applicant shall be at liberty to challenge the revised order if still aggrieved and if so advised.

9. OA is disposed of at the admission stage.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

10.04.2019

SKSI