

(1956) 03 MAD CK 0039
In the Madras High Court

N. Swaminathan		APPELLANT
	Vs	
Union of India (UOI)		RESPONDENT

Date of Decision : 26-03-1956

Acts Referred:

Citation : (1956) 69 LW 576 : (1956) 2 MLJ 217

Hon'ble Judges : Rajagopalan, J

Bench : Single Bench

Judgement

Rajagopalan, J.—This is an application under Article 226 of the Constitution for the issue of a writ of certiorari to set aside the order passed

by the General Manager, M.&S.M., Railway, on 30th December, 1948, by which the petitioner's services were dispensed with.

2. On 22nd September, 1948, the petitioner, who was an Assistant Commercial Inspector, was suspended from service pending investigation into

the proposed charges. The post he held was a non-gazetted and non-pensionable one. On 27th September, 1948, two charges were framed

against the petitioner, and he submitted his explanation on 2nd October, 1948. The charges were not apparently proceeded with further. On 30th

December, 1948, the General Manager gave notice to the petitioner terminating his services with effect from 9th February, 1949, giving him a

month's notice of such termination to take effect from 10th January, 1949. On 9th February, 1949, the petitioner's services were terminated.

3. Rule 148(3) of the Indian Railway Establishment Code, Volume I, conferred the jurisdiction on the General Manager to terminate the services of

a person who held a non-gazetted and non-pensionable post by giving him a month's notice. The same rule permitted the employee also to

terminate the services by giving a month's notice to the Manager. It was this power that was exercised by this General Manager, though earlier, charges had been framed against the petitioner. Since liability to termination of services by the issue of month's notice by the employer was one of the conditions of service which the petitioner had accepted, the petitioner cannot now be heard to complain that that power was exercised by the Manager. There was nothing wrong in the assumption of jurisdiction or in the exercise thereof by the respondent. The respondent, of course, is now represented by the General Manager of the Southern Railways.

4. The rule is discharged. The petition is dismissed. No order as to costs.