P. BALAKOTAIAH

v.

THE UNION OF INDIA AND OTHERS

(and connected appeals)

1957

December 3.

(S. R. DAS, C. J., VENKATARAMA AIYAR, S. K. DAS, A. K. SARKAR AND VIVIAN BOSE JJ.)

Railway Services—Rules for safeguarding national security—Constitutionality—Employee engaged in subversive activity—Termination of Service—Validity—Railway Services (Safeguarding of National Security) Rules, 1949 R. 3, 7,—Constitution of India, Arts. 14, 19(1)(c), 311.

The Services of the appellants who were Railway Servants, were terminated for reasons of national security under s. 3 of the Railway Services (Safeguarding of National Security) Rules, 1949. Notices served on them under that section to show cause charged them as follow:—

"Whereas in the opinion of the.....General Manager, you are reasonably suspected to be a member and office secretary of the B. N. Rly., Workers' Union (Communist sponsored) and were thickly associated with communits such as Om Prakash Mehta, B. N. Mukherjee, R. L. Reddi, etc., in subversive activities in such manner as to raise doubts about your reliability and loyalty to the State in that, though a Government employee, you attended private meetings of the Communists, carried on agitation amongst the Railway workers for a general strike from November 1948 to January 1949 evidently to paralyse communication and movement of essential supplies and thereby create disorder and confusion in the country and that, consequently, you are liable to have your services terminated under rule 3 of the said Rules". Orders of suspension were passed on them. They made their representations. The committee of Advisers on enquiry and after examining them found that the charges were true and the General Manager acting on its report terminated the services of the appellants, giving them a month's salary in lieu of notice. The appellants moved the High Court under Art. 226 of the Constitution and contended that the Security Rules contravened Arts. 14, 19(1)(c) and 311 of the Constitution and as such the orders terminating their services were void. The High Court did not decide the Constitutional validity of the Security Rules and dismissed the petitions on other grounds.

Held, that the word 'subversive activities' occurring in Rule 3 of the Railway Services (Safeguarding of National Security) Rules, 1949, in the context of the objective of national security which they have in view, are sufficiently precise in import to

sustain a valid classification and the Rules are not, therefore, invalid as being repugnant to Art. 14 of the Constitution.

Ananthanarayanan v. *Southern Railway*, A. I. R. 1956 Mad. 220, disapproved.

The charge shows that action was taken against the appellants not because they were Communists or trade unionists but because they were engaged in subversive activities. The orders terminating their services could not, therefore, contravene Art. 19(1)(c) of the Constitution since they did not infringe any of the rights of the appellants guaranteed by that Article which remained precisely what they were before.

Article 311 of the Constitution can apply only when there is an order of dismissal or removal by way of punishment. As the terms of employment of the appellants provided that their services could be terminated on a proper notice and R. 7 of the Security Rules preserved such rights as benefits of pension, gratuities and the like to which an employee might be entitled under the service rules, there was neither premature termination nor forfeiture of benefits already acquired so as to amount to punishment. The order terminating the services under R. 3 of the Security Rules stood on the same footing as an order of discharge under R. 148 of the Railway Establishment Code and was neither one of dismissal nor removal within the meaning of Art. 311 of the Constitution. Article 311 had, therefore, no application.

Parshotam Lal Dhingra v. *Union of India*, Civil Appeal No. 65 of 1957, relied on.

Satish Chandra Anand v. *Union of India*, [1953] S.C.R. 655, *Shyam Lal* v. *The State of Uttar Pradesh and the Union of India*, [1955] 1 S.C.R. 26 and *State of Bombay* v. *Saubhagchand M. Doshi*, Civil Appeal No. 182 of 1955, referred to.

Although the Rules are clearly prospective in character, materials for taking action against an employee thereunder may be drawn from his conduct prior to the enactment of the Rules.

The Queen v. *St. Mary, Whitechapel*, (1848) 12 Q. B. 120 and *The Queen* v. *Christchurch*, [1848] 12 Q. B. 149 referred to.

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 46 to 48 of 1956.

Appeal from the judgment and order dated November 16, 1951, of the former Nagpur High Court in Misc. Petitions Nos. 45, 1568 and 1569 of 1951.

H. J. Umrigar, D. L. Jayawant and *Naunit Lal*, for the appellants in C. A. Nos. 46 and 47 of 56.

D. L. Jayawant and *Naunit Lal*, for the appellant in C. A. No. 48 of 56.

1957

P. Balakotaiah
v.
The Union of India and Others

Venkatarama Aiyar J.

R. Ganapathi Iyer and *R. H. Dhebar*, for the respondent (In all the appeals).

1957. December 3. The following Judgment of the Court was delivered by

VENKATARAMA AIYAR J.—These appeals are directed against the orders of the High Court of Nagpur dismissing the writ petitions filed by the appellants herein, and as they arise out of the same facts and raise the same points for determination, they were heard together, and will be disposed of by a common judgment.

The facts in Civil Appeal No. 46 of 1956—the facts in the connected appeals are similar and do not require to be stated—are that the appellant was employed in 1939 in the Bengal Nagpur Railway as a clerk in the workshop at Nagpur. In 1946 when the State took over the administration of the Railway, it gave option to the employees to continue in service on the terms set out in a document dated July 5, 1946. The appellant accepted those terms and continued in service on the conditions mentioned in that document. Acting in exercise of the powers conferred by ss. 241 (2,) 247 and 266(3) of the Government of India Act, 1935, the Governor-General promulgated certain rules called the Railway Services (Safeguarding of National Security) Rules, 1949, hereinafter referred to as the Security Rules, and they came into force on May 14, 1949.

It will be convenient at this stage to set out the Security Rules, in so far as they are material for the purpose of these appeals, as it is the validity of these rules that is the main point for determination by us. Rules 3, 4, 5 and 7 are as follows:

3. "A member of the Railway Service who, in the opinion of the competent authority is engaged in or is reasonably suspected to be engaged in subversive activities, or is associated with others in subversive activities in such manner as to raise doubts about his reliability, may be compulsorily retired from service, or have his service terminated by the competent authority after he has been given due

notice or pay in lieu of such notice in accordance with the terms of his service agreement:

Provided that a member of the Railway Service shall not be so retired or have his service so terminated unless the competent authority is satisfied that his retention in public service is prejudicial to national security, and unless, where the competent authority is the Head of a Department, the prior approval of the Governor-General has been obtained.

4. Where in the opinion of the competent authority, there are reasonable grounds for believing that a member of the Railway Service is liable to compulsory retirement from service or to have his service terminated under Rule 3, it shall—

(a) by an order in writing, require the said member of Railway Service to proceed on such leave as may be admissible to him and from such date as may be specified in the order;

(b) by a notice in writing inform him of the action proposed to be taken in regard to him under Rule 3;

(c) give him a reasonable opportunity of showing cause against that action; and

(d) before passing a final order under Rule 3, take into consideration any representation made by him in this behalf.

5. Nothing contained in the Rules in Chapter XVII of the State Railway Establishment Code, Volume I, shall apply to, or in respect of, any action taken or proposed to be taken under these rules.

7. Any person compulsorily retired from service or whose service is terminated under Rule 3 shall be entitled to such compensation, pension, gratuity and/or Provident Fund benefits as would have been admissible to him under the Rules applicable to his service or post on the date of such retirement or termination of service if he had been discharged from service due to the abolition of his post without any alternative suitable employment being provided."

On July 6, 1950, the General Manager of the Bengal Nagpur Railway issued a notice to the appellant under R. 3

1957

P. Balakotaiah v. The Union of India and Others

Venkatarama Aiyar J.

of the Security Rules stating that in view of the facts recited therein, there was reason to believe that the appellant was engaged in subversive activities and calling upon him to show cause why his services should not be terminated. He was also placed under suspension from that date. On July 29, 1950, the appellant sent his explanation denying the allegations contained in the notice dated July 6, 1950. The matter was then referred to the Committee of Advisers, who held an enquiry on September 8, 1950, and after hearing the appellant found that the charges against him mentioned in the notice were true. Acting on this report, the General Manager terminated the services of the appellant on April 3, 1951, giving him one month's salary instead of notice.

Meantime, on February 3, 1951, the appellant had filed the writ petition, out of which Civil Appeal No. 46 of 1956 arises, in the High Court of Nagpur challenging the validity of the notice dated July 6, 1950, and the order of suspension following thereon. The order of dismissal dated April 3, 1951, having been passed during the pendency of this petition, the appellant had his petition amended by adding a prayer that that order also was bad. The grounds urged in support of the petition were that the Security Rules under which action was taken were in contravention of Arts. 14, 19(1)(c) and 311 of the Constitution, and that, in consequence, the orders passed in exercise of the powers conferred thereby were void. The respondents resisted the application on the ground that the rules in question were valid, and that the orders passed thereunder were not open to attack.

The petition was heard along with others, in which, the same questions were raised, and by their judgment dated November 16, 1951, the learned Judges held that it was unnecessary to decide whether the Security Rules were void as, assuming that they were, the orders terminating the services of the petitioners could be sustained under R. 148 of the Railway Establishment Code. Sub-rules (3) and (4) of R. 148 which bear on this point are as follows:

R. 148(3): *Other (non-pensionable) railway servants*:

"The service of other (non-pensionable) railway servants shall be liable to termination on notice on either side for the periods shown below. Such notice is not, however, required in cases of summary dismissal or discharge under the provisions of service agreements, retirement on attaining the age of superannuation, and termination of service due to mental or physical incapacity.

. . . . . .

(4) In lieu of the notice prescribed in this rule, it shall be permissible on the part of the Railway Administration to terminate the service of a Railway servant by paying him the pay for the period of notice".

The learned Judges held that the appellants were non-pensionable railway servants within sub-r. (3), that they had been paid one month's wages instead of notice under sub-r. (4), and that, accordingly, the impugned orders were *intra vires* the powers of the respondents under R. 148, sub-r. (3). In the result, the petitions were dismissed, and the present appeals have been preferred against these orders on a certificate under Art. 132(1) and Art. 133(1)(c) of the Constitution.

The appellants complain that the ground on which the judgment proceeds was not put forward by the respondents in their pleadings and should not have been allowed to be taken by them, and that on the points actually in issue, it should have been held that the Security Rules were repugnant to Arts. 14, 19(1)(c) and 311 of the Constitution, and, therefore, void. They further contend that even if the Security Rules were valid, the orders terminating the services were not justified by them, and that further, those orders were bad for the reason that they had not been made by the competent authorities. The appellants also sought to raise the contention that the enquiry conducted by the authorities was defective, and that there was no proper hearing as provided by the rules, but we declined to hear them on that point, as that was not raised in their petitions.

1957

P. Balakotaiah v. The Union of India and Others

Venkatarama Aiyar J.

The points for decision in these appeals are:

(I) Whether the orders terminating the services of the appellant can be upheld under R. 148 of the Railway Establishment Code;

(II) Whether the Security Rules are bad as infringing (a) Art. 14, (b) Art. 19(1)(c) and (c) Art. 311 of the Constition;

(III) Whether the impugned orders are not valid, even according to the Security Rules; and

(IV) Whether those orders were not passed by the competent authorities.

(I). On the first question, it appears clearly from the record that the authorities purported to take action only under the Security Rules. The notice dated July 6, 1950, was avowedly issued under R. 3 of those rules. It was in the scrupulous observance of the procedure prescribed therein that the explanations of the appellants in answer to the charges were taken, and the matters were referred to the Committee of Advisers for enquiry. And above all, the orders terminating the services of the appellants, in terms, recite that they were made under R. 3 of the rules, as for example, the notice dated April 3, 1951, given to the appellant in Civil Appeal No. 46 of 1956, which runs as follows:

"I have considered your representation to me in reply to this office letter No. Con/T/21/MP/82 dated 6-7-1950 and am of the opinion that you are engaged and associated with others in subversive activities in such manner as to raise doubts about your reliability and am satisfied that your retention in public service is prejudicial to national security. I have decided with the prior approval of the President that your services should be terminated under Rule 3 of the Railway Services (Safeguarding of National Security) Rules, 1949."

It should be added that while the appellants stated in their petitions that action had been taken against them under the Security Rules, and that those rules were *ultra vires*, the respondents did not plead that action was taken under R.

148 of the Railway Establishment Code. They only contended that the Security Rules were valid. In view of the above, the criticism of Mr. Umrigar for the appellants that the judgment under appeal proceeds on a ground which was, not merely, not in the contemplation of the authorities when they passed the orders in question, but was not even raised in the pleadings in Court, is not without substance.

It is argued that when an authority passes an order which is within its competence, it cannot fail merely because it purports to be made under a wrong provision if it can be shown to be within its powers under any other rule, and that the validity of an order should be judged on a consideration of its substance and not its form. No exception can be taken to this proposition, but it has not been the contention of the respondents at any stage that the orders in question were really made under R, 148(3) of the Railway Establishment Code, and that the reference to R. 3 of the Security Rules in the proceedings might be disregarded as due to mistake. In the Court below, the learned Judges rested their conclusion on the ground that cl. (10) of the service agreement dated July 5, 1946, provided that in respect of matters other than those specifically dealt with therein —discharge is one of such other matters—the Railway rules applicable to persons appointed on or after October 1, 1946 were applicable, that R. 148(3) was one of such rules, and that the appellants who were non-pensionable railway servants were governed by that rule, and were liable to be discharged in accordance therewith. But this reasoning ignores that under cl. (10) of the service agreement, the Security Rules stand on the same footing as the rules in the Railway Establishment Code and constitute equally with R. 148 the conditions of service on which the appellants held the employment, and there must be convincing reasons why orders passed statedly under R. 3 should be held not to have been passed under that rule. Before us, a different stand was taken by the respondents. They did not dispute that the action was

1957

P. Balakotaiah v. The Union of India and Others

Venkatarama Aiyar J.

really taken under R. 3 of the Security Rules, but they argued that the power to terminate the service under r. 3 was not something different from and independent of the power to discharge, conferred by R. 148, and that an order passed under R. 3 was, on its own terms, one made under R. 148(3). The basis for this contention is the provision in R. 3 that the service may be terminated in accordance with the service agreement, after giving due notice or pay in lieu of such notice.

The appellants controvert this position. They contend that the power to terminate the service under the Security Rules is altogether different from the power to discharge under R. 148, that the reference in R. 3 to the service agreement is only in respect of the notice to be given, there being different periods fixed under the rules in relation to different classes of employees, and that, in other respects, the Security Rules run on their own lines, and that action taken thereunder cannot be shunted on to R. 148.

We find considerable difficulty in acceding to the argument of the respondents. The Security Rules apply to a special class of employees, those who are engaged or are likely to engage in subversive activities, and in conjunction with the instructions which were issued when they were promulgated, they form a self-contained code prescribing a special and elaborate procedure to be followed, when action is to be taken thereunder. We see considerable force in the contention of the appellants that the mention of the service agreement in R. 3 has reference only to the nature of the notice to be given. If the interpretation which the respondents seek to put on the Security Rules is correct, then it is difficult to see what purpose at all they serve. Mr. Ganapathy Iyer for the respondents argues that they are intended to afford protection to persons who might be charged with being engaged in subversive activities. If that is their purpose, then if action is taken thereunder but the procedure prescribed therein is not followed, the order must be held to be bad, as the protection intended to be given has been denied to the employee, and R. 148 cannot be invoked to

give validity to such order. Indeed, that has been held in *Sambandam* v. *General Manager, S. I. Ry.*(1) and *Prasadi* v. *Works Manager, Lillooah*(2) and that is also conceded by Mr. Ganapathy Iyer. If then the power to terminate the service under the Security Rules is different from the power to discharge under R. 148 when the procedure prescribed therein is not followed, it must be equally so when as here, it has been followed, for the complexion of the rules cannot change according as they are complied with or not. That means that the Security Rules have an independent operation of their own, quite apart from R. 148. We do not, however, desire to express any final opinion on this question, as Mr. Ganapathy Iyer is willing that the validity of the orders in question might be determined on the footing that they were passed under R. 3 of the Security Rules, without reference to R. 148. That renders it necessary to decide whether the Security Rules are unconstitutional, as contended by the appellants.

(IIa). The first ground that is urged against the validity of the Security Rules is that they are repugnant to Art. 14. It is said that these rules prescribed a special procedure where action is proposed to be taken against persons suspected of subversive activities, and that when the services of an employee are terminated under these rules, the consequence is to stamp him as unreliable and infamous, and there is thus discrimination, such as is hit by Art. 14. It is admitted that if the persons dealt with under these rules form a distinct class having an intelligible differentia which bears a reasonable relation to the purposes of the rules, then there would be no infringement of Art. 14. But it is argued that the expression "subversive activities" which forms the basis of the classification is vague and undefined in that even lawful activities could be roped therein, and that such a classification cannot be said to be reasonable. Reference was made to the charges which were served on the appellant in Civil Appeal No. 46 of 1956 as showing how even lawful activi-

(1) I.L.R. [1953] Mad. 229.
(2) A.I.R. 1957 Cal. 4.

1957

P. Balakotaiah v. The Union of India and Others

Venkatarama Aiyar J.

ties could be brought under the impugned rules. The notice, so far as it is material, runs as follows:—

"Whereas in the opinion of the.....General Manager, you are reasonably suspected to be a member and office secretary of the B. N. Rly. Workers' Union (Communist sponsored) and were thickly associated with communists such as Om Prakash Mehta, B. N. Mukherjee, R. L. Reddy, etc., in subversive activities in such manner as to raise doubts about your reliability and loyalty to the State in that, though a Government employee, you attended private meetings of the Communists, carried on agitation amongst the Railway workers for a general strike from November 1948 to January 1949 evidently to paralyse communication and movement of essential supplies and thereby create disorder and confusion in the country and that, consequently, you are liable to have your services terminated under rule 3 of the said Rules."

It is argued that it is not unlawful to be a member of the Communist Party or to engage in trade union activities, and if this could form the basis of action under the rules, the classification must be held to be unreasonable. Reliance was placed on the decision of this Court in *The State of West Bengal* v. *Anwar Ali Sarkar*(1), wherein it was held that a power conferred on the executive to select cases for trial by special courts under a procedure different from that of the ordinary courts with the object of ensuring "speedy trial" could not be upheld under Art. 14 as a valid classification, and on the decision of the Madras High Court in *Ananthanarayanan* v. *Southern Railway*(2), wherein it was held that the words "subversive activities" in R. 3 lacked definiteness.

Now, the principles applicable for a determination whether there has been a proper and valid classification for purposes of Art. 14 have been the subject of consideration by this Court in a number of cases, and they were stated again quite recently in *Budhan Choudhry and others* v. *The State of Bihar*(3), and there is no need to repeat them. The only point that calls for decision in these appeals is whether

(1) [1952] S.C.R. 284.

(2) A.I.R. 1956 Mad. 220.

(3) [1955] 1 S.C.R. 1045, 1049.

the classification of persons on the basis of subversion activities is too vague to be the foundation of a valid classification. Mr. Umrigar insists that it is, but his elaborate argument amounts to no more than this that the expression "subversive activities" may take in quite a variety of activities, and that its contents are therefore wide. It may be that the connotation of that expression is wide, but that is not to say that it is vague or indefinite. But whatever the position if the words "subversive activities" had stood by themselves, they are sufficiently qualified in the Security Rules to be definite. Those rules have, for their object, the safeguarding of national security as recited in the short title. That is again emphasised in R. 3, which provides that a member of the Railway service is not to be retired or his services terminated unless the authorities are satisfied "that his retention in public service is prejudicial to national security". In our judgment, the words "subversive activities" in the context of national security are sufficiently precise in their import to sustain a valid classification. We are unable to agree with the opinion expressed in *Ananthanarayanan* v. *Southern Railway* (supra) at p. 223 that the language of R. 3 is indefinite, even when read with the words "national security".

We are also unable to agree with the argument of the appellants based on the charges made against the appellant in Civil Appeal No. 46 of 1956 in the notice dated July 6, 1950, that the expression "subversive activities" is wide enough to take in lawful activities as well, and must therefore be held to be unreasonable for purposes of classification under Art. 14. The notice, it is true, refers to the appellant being a member of the Communist Party and to his activities in the trade union. It is also true that it is not unlawful to be either a Communist or a trade unionist. But it is not the necessary attribute either of a Communist or a trade unionist that he should indulge in subversive activities, and when action was taken against the appellant under the rules, it was not because he was a Communist or a trade unionist,

1957

P. Balakotaiah v. The Union of India and Others

Venkatarama Aiyar J.

but because he was engaged in subversive activities. We hold that Security Rules are not illegal as being repugnant to Art. 14.

(IIb.) It is next contended that the impugned orders are in contravention of Art. 19(1)(c), and are therefore void. The argument is that action has been taken against the appellants under the rules, because they are Communists and trade unionists, and the orders terminating their services under R. 3 amount, in substance, to a denial to them of the freedom to form associations, which is guaranteed under Art. 19(1)(c). We have already observed that that is not the true scope of the charges. But apart from that, we do not see how any right of the appellants under Art. 19(1)(c) has been infringed. The orders do not prevent them from continuing to be Communists or trade unionists. Their rights in that behalf remain after the impugned orders precisely what they were before. The real complaint of the appellants is that their services have been terminated; but that involves, apart from Art. 311, no infringement of any of their Constitutional rights. The appellants have no doubt a fundamental right to form associations under Art. 19(1)(c), but they have no fundamental right to be continued in employment by the State, and when their services are terminated by the State they cannot complain of the infringement of any of their Constitutional rights, when no question of violation of Art. 311 arises. This contention of the appellants must also be rejected.

(IIc). It is then contended that the procedure prescribed by the Security Rules for the hearing of the charges does not satisfy the requirements of Art. 311, and that they are, in consequence, void. But Art. 311 has application only when there is an order of dismissal or removal, and the question is whether an order terminating the services of the employees under R. 3 can be said to be an order dismissing or removing them. Now, this Court has held in a series of decisions that it is not every termination of the services of an employee that falls within the operation of Art. 311, and that it is only when the order is by way of

punishment that it is one of dismissal or removal under that Article. Vide *Satish Chandra Anand* v. *Union of India*(1), *Shyam Lal* v. *The State of Uttar Pradesh and the Union of India*(2), *State of Bombay* v. *Saubhagchand M. Doshi*(3), and *Parshotam Lal Dhingra* v. *Union of India*(4). The question as to what would amount to punishment for purposes of Art. 311 was also fully considered in *Parshotam Lal Dhingra's case* (supra). It was therein held that if a person had a right to continue in office either under the service rules or under a special agreement, a premature termination of his services would be a punishment. And, likewise, if the order would result in loss of benefits already earned and accrued, that would also be punishment. In the present case, the terms of employment provide for the services being terminated on a proper notice, and so, no question of permature termination arises. Rule 7 of the Security Rules preserves the rights of the employee to all the benefits of pension, gratuities and the like, to which they would be entitled under the rules. Thus, there is no forfeiture of benefits already acquired. It was stated for the appellants that a person who was discharged, under the rules was not eligible for re-employment, and that that was punishment. But the appellants are unable to point to any rule imposing that disability. The order terminating the services under R. 3 of the Security Rules stands on the same footing as an order of discharge under R. 148, and it is neither one of dismissal nor of removal within the meaning of Art. 311. This contention also must be overruled.

(III) It is next contended by Mr. Umrigar that the charges which were made against the appellant in Civil Appeal No. 46 of 1956 in the notice dated July 6, 1950, have reference to events which took place prior to the coming into force of the Security Rules, which was on May 14, 1949, and that the order terminating the services of the appellant based thereon is bad as giving retrospective operation to the

(1) [1953] S.C.R. 655.
(2) [1955] 1 S.C.R. 26.
(3) Civil Appeal No. 182 of 1955.
(4) Civil Appeal No. 65 of 1957.

1957

P. Balakotaiah
v.
The Union of India and Others

Venkatarama Aiyar J.

rules, and that the same is not warranted by the terms thereof. Now, the rules provide that action can be taken under them, if the employee is engaged or is reasonably suspected to be engaged in subversive activities. Where an authority has to form an opinion that an employee is likely to be engaged in subversive activities, it can only be as a matter of inference from the course of conduct of the employee, and his antecedents must furnish the best materials for the same. The rules are clearly prospective in that action thereunder is to be taken in respect of subversive activities which either now exist or are likely to be indulged in, in future, that is to say, which are *in esse* or *in posse*. That the materials for taking action in the latter case are drawn from the conduct of the employees prior to the enactment of the rules does not render their operation retrospective. Vide the observations of Lord Denman C. J. in *The Queen* v. *St. Mary, Whitechapel* (1) and *The Queen* v. *Christchurch* (2). This contention must also be rejected.

(IV) Lastly, it was contended that the impugned orders were not passed by the competent authorities under the Security Rules, and that they were, therefore, void. This contention is based on the fact that the authority competent to pass the orders under R. 3 is, as regards the present appellants, the General Manager, and that the impugned orders were actually communicated to them by the Deputy Manager. But it has been found as a fact that the orders had been actually passed by the General Manager, and that finding must be accepted.

In the result, the appeals fail, and are dismissed with costs. The appellants who were permitted to file the appeals in *forma pauperis* will also pay the court fees payable to the Government.

Appeals dismissed.

(1) [1848] 12 Q.B. 120; 116 I.R. 811.
(2) [1848] 12 Q.B. 149; 116 E.R. 823, 825