

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.265/2019

This the 25th day of August, 2020

**Coram : Hon'ble Shri J.V.Bhairavia, Member (J)
Hon'ble Shri A.K.Dubey, Member (A)**

Shri Pradeepsingh
Son of Shri Balvantsingh Zala
Age : 48 years, working as LDC
In the office of the respondents,
Residing at : 4, Momai Nagar
Nr. Gandhinagar Railway Station,
Jamnagar – 361 002. Applicant

(By Advocate : Shri M.S.Trivedi)

VERSUS

1. Union of India,
Notice to be served through
The Secretary
Government of India
Ministry of Defence
Vayu Bhawan, New Delhi 110 001.
2. Commanding Officer
O/o. C.O. South West – Air
Command, I/C Civil Admn,
Sector-9, Gandhinagar.
3. The Air Commandant
O/o. Air Commandant
33 Wing Air Force
Jamnagar 361002. **Respondents**

(By Advocate : Shri H.D.Shukla)

O R D E R – ORAL

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

Counsel for the applicant, Shri M.S.Trivedi after arguing for some time submits that the applicant will be satisfied, if appropriate

direction be issued to the Appellate Authority to consider his appeal, which he will file, expeditiously and the same be decided within stipulated time limit.

2. On the other hand, Shri H.D. Shukla, learned standing counsel for the respondents appears and submits that if applicant files appeal under statutory rules, the same will be considered as per rules.

3. It is noticed that alleged misconduct of claiming Children Education Allowance had accepted by the applicant and it is stated by the applicant that it was his *bona fide* mistake and prior to the issuance of the charge sheet, the respondents have recovered the excess payment paid to the applicant with penal interest (Rs.27,896/- + 16,275/-) and after the said recovery, the applicant was served with the charge sheet with major penalty resultant and removal from the service was awarded upon the applicant.

4. Counsel for the applicant submits that he had approached this Tribunal without availing the statutory remedy of appeal mainly on the ground that initiation of the departmental proceedings against the applicant and imposing harsh punishment is *ex-facie*, contrary to the facts on records and evidence. The applicant is Group 'D' employee and after recovery of excess payment with penal interest, punishment of removal from service is fatal of his survival and his family and hence, he has approached this Tribunal. However, he has fairly submits that he may be allowed to file appeal and let this OA be

treated, by the respondents, as his appeal and the same may be disposed of within stipulated time period.

5. Considering the aforesaid submissions and on perusal of the materials available on record, we accept the request of the counsel for the applicant and we dispose of the OA with the following directions :

- i. The applicant is permitted to file appeal along with copy of the OA before the Respondent No.2.
- ii. Respondents are directed to consider the present OA as appeal of the applicant against the order passed by the disciplinary authority dated 09.07.2019, and
- iii. The Appellate Authority is directed, on receipt of the aforesaid appeal of the applicant, decide the same on the basis of the pleadings and material made available by the applicant within 45 days and intimate the decision to the applicant, thereafter.

6. With the above directions and observations, the OA stands disposed of.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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