

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.                      419    of    1986  
Tax No.

DATE OF DECISION 1st July 1986

Shri Charan Singh                      Petitioner

Shri S.K. Bisaria                      Advocate for the Petitioner(s)

Versus

Union of India & others                      Respondent

Shri K.N.R. Pillai                      Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*

JUDGMENT:


In this application under Section 19 of the Administrative Tribunals Act, the petitioner complains about the order of reversion from Class III post to Class IV post. The order of reversion was not served

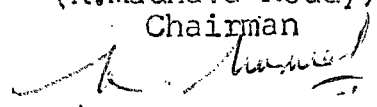
*[Signature]*

on the petitioner and the respondents state that he had been avoiding service. This Tribunal had on 17.6.86 made an interim order staying reversion. An objection has been taken in the counter filed today that the petitioner has not exhausted all the remedies of appeal, revision and review available to him under the service rules and therefore the petition should not be entertained. However, it is common ground that there is no specific provision empowering the appellate authority or reviewing authority to consider the staying of the operation of the order under appeal or review pending disposal of the appeal or review, as the case may be. In the absence of any such rule, it is doubtful whether the said Authorities could order stay of the order under appeal or review, as the case may be, even in a just and proper case. It is not as if this Tribunal cannot entertain application unless the aggrieved employee avails all the remedies provided under the Service Rules. All that Section (19)<sup>20</sup> says is that "ordinarily" this tribunal would not entertain an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules. Where the service rules do not empower the Authorities to stay the order howsoever just the case may be and howsoever erroneous the order <sup>under</sup> appeal or review may be ~~illegal~~, that may, in the circumstances of the particular case, constitute a valid ground for entertaining an application under Section 19 without insisting upon the applicant to avail of

*Kant*

all the remedies of appeal or review provided under the Service Rules. It is common knowledge that appeals and reviews not only in courts but even before the appellate authorities take quite a long time to be disposed of and during that period the applicant would be visited with adverse consequences of the impugned order. However, whether a petition under section 19 should be entertained without insisting upon the applicant to exhaust all the remedies is a matter to be considered on the facts and circumstances of each case and no hard and fast rule can be made in this regard. In the circumstances of this case, we think that the petitioner was justified in moving the Tribunal under Section 19 without availing all the remedies provided under the Service Rules. We direct that the petitioner should present himself in the office of the Senior D.C.S. Northern Railway at Jhansi and receive the written order of reversion on 7.7.86. If the applicant files any appeal against the order within two weeks, the Appellate Authority shall entertain and dispose off the same on merits. If any adverse order is made by the appellate authority, the applicant may file a review application within a month of the service of the appellate order. There shall be interim stay pending disposal of the appeal and the review if any filed. This application is allowed and the above directions shall issue. There will be no order as to costs.


  
(K. Madhava Reddy)  
Chairman

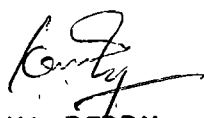
  
(Kaushal Kumar)  
Member

1st July 1986

The typographical errors on page 2 in line 20 i.e., line 42 from the bottom of the Judgment in CHARAN SINGH Vs. UNION OF INDIA (O.A.4198/86) shall be corrected as under:

On page 2 in line 20 i.e., line 12 from the bottom of the Judgment in CHARAN SINGH Vs. Union of India (O.A.4192/86) dated 1.7.86 the appropriate section is Section 20 as pointed by Sri Surendra Mallik, Editor, Supreme Court Cases. Further, the word "Illegal" appearing in line 28(i.e., the 4th line from the bottom) on the same page i.e., page 2 is found to be superfluous; it must be deleted.

  
KAUSHAL KUMAR,  
Member  
25-8-1986.

  
K. MADHAVA REDDY,  
CHAIRMAN  
25-8-1986.