

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 425
T.A. No.

198 6

DATE OF DECISION 18.8.1986.

Shri Bhim Sain Aggarwal,

Petitioner

In person

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondents

Shri Jagjit Singh,

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 ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to other Benches ? *No*

K. Madhava Reddy
(K. Madhava Reddy)
Chairman
18.8.86.

K. Madhava Reddy
(Kaushal Kumar)
Member
18.8.86.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Reqn. No. OA 425/86.

Shri Bhim Sain Aggarwal ... Petitioner

Vs

Union of India and others ... Respondents

CORAM:

Shri Justice K. Madhava Reddy, Chairman
Shri Kaushal Kumar, Member.

For petitioner ... In person.

For respondents ... Shri Jagjit Singh,
counsel.

(Judgement of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman)

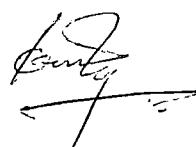
This is an application under Section 19 of the Administrative Tribunals Act, 1985 under which the order of suspension dated 15.5.1986 is called in question by the applicant herein. Two preliminary objections to the admission of this application are raised by the Respondents. Firstly that the Principal Bench of the Central Administrative Tribunal has no jurisdiction to entertain the matter and that it should have been presented before the Jodhpur Bench of the Tribunal; secondly that the petitioner has not exhausted the remedy of appeal under Rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968.

So far as the first objection is concerned, it is seen that the application was filed on 11.6.1986 when the Principal Bench at Delhi had territorial jurisdiction over the state of Rajasthan. The Jodhpur Bench of the Tribunal was constituted only w.e.f. 30.6.86. The matter was, therefore, rightly entertained by the Principal Bench of the Tribunal on 11.6.1986. Now that the Jodhpur Bench is established, question may arise



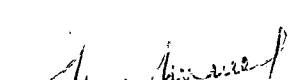
whether this matter should be transferred to Jodhpur Bench. In the view we are taking on the second preliminary objection, we deem it unnecessary to transfer this matter to the Jodhpur Bench for further hearing. Moreover, the Chairman who is sitting on this Bench has power to withdraw or transfer a matter pending before any Bench to the Principal Bench or any other Bench. Hence this preliminary objection is rejected.

Rule 18 of the Brochure on Railway Servants (Discipline & Appeal) Rules, 1968 makes provision for an appeal against an order of suspension made or deemed to have been made under Rule 5 which authorises the competent authority to place a Railway servant under suspension where a disciplinary proceeding against him is either contemplated or is pending. Although the petitioner appearing in person now states that he has preferred an appeal on 11.6.1986, this is not averred in the original application; nor has he made such an averment in the rejoinder/wherein preliminary objection is raised under Section 20(1) of the Administrative Tribunals Act, that unless the remedies provided under the relevant service Rules are exhausted, ordinarily the Tribunal shall not entertain an application under Section 19. In fact, the petitioner in Para B of the rejoinder states that he has "no alternative equally efficacious remedy" except to file this application before this Tribunal. It is futile to contend that the statutory remedy of appeal provided under the Service Rules is, in the present circumstances of the case, efficacious. Now that the applicant states that an appeal has been filed in June, 1986, we do not see any reason to entertain this application. We have no



doubt that the Appellate Authority shall dispose off the appeal expeditiously on merits. However, we are not quite sure whether the applicant has in fact filed an appeal. If he has not already filed an appeal, he may now file the same within 30 days from today. If an appeal is already filed or one is filed now in pursuance of this order within 30 days from today, the Appellate Authority shall entertain and dispose off the same on merits. Subject to above, this petition is dismissed.


(K. Madhava Reddy)
Chairman 18.8.1986


(Kaushal Kumar)
Member 18.8.1986