

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

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

646

1986

DATE OF DECISION 20.4.1988

Shri Kul Bhushan

Applicant  
Petitioner

Applicant in person.

Advocate for the Petitioner(s)

Versus

General Manager, Northern Railway  
& others

Respondents

Shri O.N. Moolri,

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 all the Benches? *No*

*✓* *kaushal*  
( KAUSHAL KUMAR)  
MEMBER

*✓* *Reddy*  
( K. MADHAVA REDDY)  
CHAIRMAN

20.4.88

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

OA No. 646/86

Dated 20.4.1988

Shri Kul Bhushan ----- Petitioner

Vs.

General Manager,  
Northern Railway & others ----- Respondents.

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman  
Hon'ble Mr. Kaushal Kumar, Member

For the Applicant ----- Applicant in person.

For the Respondents ----- Shri O.N.Moolri, Counsel.

( Judgement of the Bench delivered by  
Hon'ble Mr. Justice K. Madhava Reddy, Chairman)

JUDGEMENT

MP No. 655/88

Petition for amendment of the written statement  
is placed on record.

OA No. 646/86

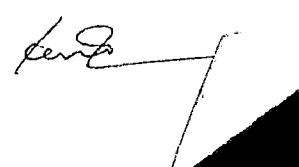
The applicant, who was a Chief Parcel Supervisor, in this application under Section 19 of the Administrative Tribunals Act, 1985, calls in question the order of "removal immediate from service with/effect" passed by the Divisional Railway Manager, Jodhpur vide letter No.80T/8/Miss/85 dated 6.8.86 and communicated to him under Notice No.729E/E/G/Commercial /Kulbhushan/K dated 27.9.85. The order of removal was preceded by an order of transfer dated 13.2.1985. That order is also called in question. In the view we are taking in respect of these reliefs, we deem it unnecessary to go into the merits of the applicant's claim and the several contentions that arise for consideration in this application.

2. It is the case of the applicant that the order of removal was served on him through Senior APO Jodhpur

*sent*

the  
during the conciliation proceedings in/office of the  
Assistant Labour Commissioner, New Delhi on 28.11.85. He,  
therefore, preferred an appeal on 1.1.86 to the Chief  
Commercial Superintendent, Northern Railway, New Delhi  
through D.R.M, Jodhpur. As that appeal was not disposed  
off the applicant submitted a representation to the  
General Manager, Northern Railway on 18.1.86. The  
applicant states that since there was no response from  
the Respondents he send a reminder by Registered Post  
Acknowledgement Due addressed to the General Manager,  
Northern Railway, Baroda House, New Delhi on 5.7.86  
complaining that his representations and appeals against  
the orders of transfer and removal had not been disposed  
off and that in the circumstances he was compelled  
to move a Court of law for redressal of his grievances.

3. The Respondents state in their reply that they  
have not received the appeal or the representations. Be  
that as it may, it is now admitted on behalf of the  
Respondents by Shri Moolri, learned counsel appearing  
before us that they have now received a Memorandum of  
appeal but he is not in a position to state whether  
this Memorandum was the same which was filed by the  
applicant in 1986 or another one. Applicant states  
that he has not filed any appeal except the one dated  
1.1.86 addressed to the Chief Commercial Superintendent,  
the representation dated 18.1.86 to the General  
Manager, Northern Railway, New Delhi and the reminder  
to the Respondents on 5.7.86. If the Respondents have  
received a Memorandum of appeal, it must be the appeal  
send by him on 1.1.86. By that as it may, when the  
Respondents admit that they have received the  
Memorandum of appeal filed by the applicant against the  
order of removal that appeal should be treated as one filed  
within time and disposed off on merits. Respondents:



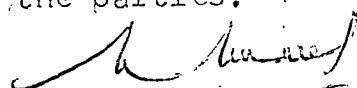
are directed to dispose off the appeal within a period of three months from today and communicate the result to the applicant. This application is accordingly disposed off.

4. However, nothing said herein will stand in the way of the applicant challenging any adverse order that may be made by the Appellate Authority in this behalf. As the appeal is treated having been filed within time, the Respondents shall dispose off the same on merits.

5. In view of the subsequent order of removal made against the applicant, the consideration of the legality or propriety of the order of transfer impugned in this application has become academic. We, therefore, do not propose to go into the merits of that order so long as the order of removal operates. It is, however, made clear that it does not amount to approving the order of transfer or treating it as a legal or proper one. Whether the order of removal should be upheld or quashed it is for the Appellate Authority to consider. If the order of removal is quashed, if necessary at that stage it could be questioned and gone into.

6. This application is allowed to the extent indicated above.

7. A copy of the judgement may be given (dasti) to both the parties.



( KAUSHAL KUMAR)  
MEMBER



( K. MADHAVA REDDY)  
CHAIRMAN

20.4.88