

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(2)

O.A. No. 2394 of
T.A. No.

1991

DATE OF DECISION 31.10.91Zakir Husain

Petitioner

Rita Kumar

Advocate for the Petitioner(s)

Versus

Union of India & Ors

Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

The Hon'ble Mr. L.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

The applicant is working as Archivist since 1982. On 20.1.87, the applicant was served with a charged memorandum containing the allegation that the applicant refused to obey the verbal orders of his superior officer on 26th and 29th December, 1986. Ultimately, on 13.6.88 the applicant was served with an order imposing the penalty of 'censure' warning him to be careful in future. He filed an appeal, but, according to him, the same has not been decided as yet. According to the O.A., the appeal was rejected on 29.5.90. The applicant is aggrieved by his order of transfer from Delhi to Bhopal which was passed on 17.9.91. By this O.A. it is the transfer order which is under challenge.


2 Rita Kumar, counsel for the applicant, was heard on admission. On inquiry from the Bench as to whether the applicant has filed any representation with regard to his transfer or not, the counsel for the

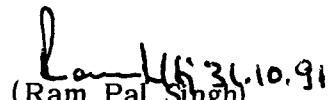
Ram Pal Singh

3

applicant, Rita Kumar, stated that the applicant has got a fractured leg; that the matter is urgent and it will take six months to wait for the decision on the representation; that it is an extraordinary circumstance and hence the necessity of filing the representation be dispensed with.

3. The applicant occupies a transferable post. Nothing appears from the O.A. that by this transfer order, his status, pay or emoluments have been altered. If he is in difficulty, then he should file a representation before his superior officers and put up his difficulties so that the employers may consider and pass appropriate orders. This is what has been held by the apex court in the case of Gujarat Electricity Board and another vs. Atmaram Sungomal Pshani (AIR 1989 S.C. 1433). Section 20 of the Administrative Tribunals Act of 1985 provides that the O.A. filed under Section 19 shall not be admitted unless the ^{departmental} remedies have been exhausted. The departmental remedy includes filing of the representation against the transfer order. From the facts contained in the O.A., no extraordinary circumstance appears to exist. The provision under Section 20 of the Act is mandatory as held in the case of S.S. Rathore vs. State of Madhya Pradesh (AIR 1990 S.C. 10). In our view, therefore, this O.A. is premature and this Tribunal is not prepared to admit the O.A. at the present stage unless the departmental remedies have been availed of by the applicant. As this O.A. is premature, it is dismissed with liberty to the applicant to file a fresh O.A. after availing the departmental remedies.


(L.K. Rasgotra)
Member (A)


(Ram Pal Singh)
Vice-Chairman (J)