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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.2286 of 1993

16th day of November, 1993.

Shri J.P. Sharma, Member (Judl.)

Shri B.K. Singh, Member (A)

Shri Vir Shivaji Sharma,
J-3/19, Rajouri Garden,
New Delhi.

Applicant

By Advocate Shri G.D. Bhandari.

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.
3. Shri Pradeep Kumar,
DSE, Northern Railway,
DRM Office, Moradabad.
4. Mr. M.G. Banga
DEN (HQ), Northern Rly.,
DRM Office, Moradabad.
5. Shri Sushil Chand Kapoor,
Assistant Engineer,
Northern Railway,
Hapur.

Respondents

By Advocate: None.

O R D E R

Shri J.P. Sharma

Heard the learned counsel on admission. The applicant was working as Permanent Way Inspector. He was served with a memo. of charge-sheet under Rule 9 of the Railway Servants (D&A) Rules, 1968 dated 29.4.92. This disciplinary enquiry finally ended in a punishment order dated 1.10.1993 by which the penalty of compulsory

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retirement from service was passed against the applicant. The applicant has filed an appeal against the same on 9.10.1993 to D.R.M.


2. The relief claimed by the applicant is to quash the aforesaid order of punishment dated 1.10.1993 and with a direction to the respondents to treat him as continuing in service.

3. The contention of the learned counsel is that the appeal filed by the applicant on 9.10.1993 to D.R.M., Moradabad, has not been disposed of and since the matter is urgent, without waiting for the result of the appeal, the applicant filed this application on 22.10.1993.

4. The application is hit by Section 20 of the A.T. Act, 1985 which specifically lays down that the judicial review against an order can only be filed after waiting for a period of six months from the date of filing the appeal. In this case, there are no such circumstances which can be taken to be an exception to that rule. In case the application is admitted, the administrative appeal filed by the applicant will become infructuous. The application is, therefore, premature. We are fortified in our view by the decision of the Full Bench of C.A.T., Hyderabad Bench - Shri A. Padmavally & Ors. Vs. C.P.W.D. & Telecom, CAT, F.B.J. Vol.II, 334, 1991 Ed.

5. The application is, therefore, dismissed as premature with liberty to the applicant to assail the order of punishment, or on the expiry of six months from the date of filing of the appeal, if so advised. There will be no order as to costs.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)