

21/-

Application Under Section 19 of the  
Administrative Tribunals Act.

In The Central Administrative Tribunal

*Addition of*  
Principal Bench, New Delhi. *Allahabad*

Between

Subimal Dutta S/O Shri R.R. Dutta

R/O Prem Ganj, House NO. 549,

Sipri Bazar, Jhansi. - Applicant

And

- (1) The Union of India through the General Manager,  
Central Railway, Bombay V.T.
- (2) The General Manager, South Eastern Railway,  
Garden Reach, Calcutta.
- (3) The Divisional Railway Manager, Central  
Railway, Jhansi.
- (4) The Divisional Railway Manager, South  
Eastern Railway, Nagpur. - Respondents.

Details of application:

(1) Particulars of the Applicant.

Subimal Dutta S/O Late Shri R.R. Datta

Now working as Junior Clerk in the Works

Account and Budget Section of the Divisional

Railway Manager's Office, Central Railway

Jhansi. Notices to be served upon the applicant

at the following address :-

*Subimal* *all the*



Hon. D.S.Misra, Member (A)

Hon. G.S.Sharma, Member (J)

(By Hon. G.S.Sharma, J-Member)

This petition has been filed for setting aside the order dated 18.10.1983 and 1.11.1983 reverting the applicant from the post of Senior Clerk to the post of Junior Clerk and order dated 16.9.1985 for the recovery of the difference in pay with the allegation that the applicant being a permanent Senior Clerk could not be reverted to the post of Junior Clerk on his transfer and the difference in pay cannot be realised under the law from him. Before moving this application under Section 19 of the Administrative Tribunals Act, the applicant did not file any appeal or representation to his superior officers stating that no remedy is available against the impugned orders and simply gave a notice under Section 80 C.P.C. At the time of argument, the learned counsel for the applicant contended that it is not obligatory on an applicant to file an appeal before moving an application under section 19 as the word "ordinarily" used in Section 20 contemplates. We agree that in rare cases, an applicant may be allowed to move an application under Section 19 without exhausting his departmental remedies for redressal. The applicant has not explained as to <sup>now</sup> why his case is of rare species contemplated by Section 20. On the other hand, his averment in paragraph 9 of the application shows that no remedy is available to the applicant against the impugned orders. Instead of explaining any special circumstance to entertain his application without his exhausting the departmental remedies, the applicant has made this wrong averment in his petition.

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Clause (iv)(a) of Rule 18 of the Railway Servants Discipline and Appeal Rules, 1968 provides that a railway servant may prefer an appeal against the order which varies to his disadvantage ~~to~~ his pay and allowances. Clause (v) (b) of this Rule further provides that an appeal can also be filed against an order reverting a railway servant to a lower service, grade or post. It is, therefore, wrong to say that no remedy lay against the impugned order. In the absence of any extra-ordinary circumstance or hardship to the applicant, we, therefore, find ourselves unable to deviate from the common practice and cannot allow the applicant to move this application without his exhausting the departmental remedies for redressal of his grievances and accordingly dismiss the petition summarily.

Member (A)

19.5.1986  
kkb

Member (J)



..... Contd.