

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 384
~~TA No.~~

1987

DATE OF DECISION 23.4.1990

Nagar Sana

Petitioner

Mr. U.M. Shastri

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. N.S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. N. Dharmadan Judicial 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 it needs to be circulated to other Benches of the Tribunal? No

O.A. No. 384 of 1987

Nagar Sana,
Village-Valod,
Ta. Anand Dist. Kaira.
(Advocate - Mr. U.M. Shastri)

.. Applicant

Versus

1. Union of India,
Through,
General Manager, W.Rly.,
Churchgate, Bombay.
2. Divisional Rly. Manager,
Pratapnagar,
Baroda.
3. Medical Superintendent, W.Rly.,
Pratapnagar,
Baroda.
(Advocate - Mr. N.S. Shevde)

.. Respondents

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. N. Dharmadan .. Judicial Member

O R D E R

Date : 23.4.1990

Per : Hon'ble Mr. P.H. Trivedi .. Vice Chairman


Heard Mr. N.S. Shevde, learned advocate for the respondents. The petitioner or his advocate not present, when the case was called out twice. Learned advocate for the respondents stated that the appeal against the order having been decided on 7.7.1981, the case is time barred. The petitioner's petition for mercy has been disposed of only by an order dt. 5.1.1987 and that order merely states that it has been rejected on account of time barred. There is a provision for review/revision under the relevant rules governing the petitioner's case. Learned advocate for the respondents stated that the mercy petition dt. 28.6.1986 is not in terms a petition for review/revision and that it is not a remedy which the petitioner is obliged to ^{exhaust} file and that the limitation cannot be counted


from the date of the disposal of ^{merely petition} ~~appeal~~ i.e. dt. 5.1.87.

2. We are unhappy with the approach of the respondent authorities in this case. The petitioner is a Safaiwala and during the inquiry, the charges were upheld only on the ground that there was no certificate of hospitalisation for a period of absence as ^{long as} ~~well~~ as nine months, there was no defence to the charges. Whether such defence that the petitioner has was valid or not, considering the low paid staff which the petitioner was, it ~~should have been~~ ^{it is not} reasonable to ~~accept~~ ^{expect} that the appellate authority should have examined the merits of the case in detail when there was no defence ^{> put forth} to the charges ^{under} ~~in~~ ⁱⁿ ~~quity~~ ^{quity} and when the appeal was rejected only on the ground of time barred and considering the petitioner was a low paid employee, his petition might have been dealt with as a review petition without going into technicality in terms ^{of it being for} ~~for~~ review. Had it been so regarded, the order of the disposal of such petition would also need to have been reasoned and speaking with reference to the merits of the case.

3. Accordingly, it is appropriate that the case be remitted to the General Manager, who may dispose of the case as review/révision petition after allowing an opportunity to the petitioner to file a fresh supplementary petition and give a reasoned speaking order with reference to the rules within six months from the date of this order.

With the above direction and observation, the case is disposed of. No order as to costs.


(N Dharmadan)
Judicial Member


(P H Trivedi)
Vice Chairman