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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A. No. 634 OF 1987**

~~Case No.~~

**DATE OF DECISION 10-6-93**

Kailash Babu Pandey, Petitioner

Mr. R.R. Tripathi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. B.R. Kyada, Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr.M.R.Kolhatkar, Admn. Member.

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?

Kailash Babu Pandey,  
Assistant Station Master,  
Iqbalgadh, Dist. Banaskantha,  
(Western Railway).

.... Applicant.

(Advocate: Mr. R.R.Tripathi)

Versus.

1. Union of India,  
(Notice to be served through  
the General Manager,  
Western Railway, having his  
office at Churchgate, Bombay).

2. Chief Operating Superintendent  
Western Railway,  
having his office at  
Churchgate, Bombay.

3. Divisional Railway Manager,  
Western Railway,  
Ajmer Division, Ajmer.

.... Respondents.

(Advocate: Mr. B.R.Kyada)

ORAL ORDER

O.A.No.634/1987

Date: 10-6-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. R.R.Tripathi, learned advocate  
for the applicant and Mr. B.R.Kyada, learned advocate  
for the respondents.

2. This application under section 19 of the  
Administrative Tribunals Act, 1985, is filed by the  
applicant, serving as Assistant Station Master at  
Iqbalgadh, Banaskantha, at the relevant point of time,  
seeking the relief for quashing and setting aside the  
impugned order passed by the Sr.D.O.S., Ajmer vide  
Annexure A, by which the penalty was inflicted on the

applicant for stoppage of one year increment with future effect. It is the case of the applicant that the said order is illegal and unconstitutional and against the principle of natural justice.

3. There is a detailed history of this case which had gone to the High Court of Gujarat twice regarding the action taken against the applicant by the respondents. We do not want to repeat all the averments made by the applicant about the same which are found in para-6 of his application. The ultimate result was that the respondents issued a memo dated 6th August, 1983 from Senior Divisional Operating Superintendent, Ajmer for proceeding with the applicant and also asking the applicant to attend the office on 22nd August, 1983 with regard to the initial charge sheet against him regarding alleged restricted loading of live-stock without permission in the year 1979. The case of the applicant is that the said memorandum was issued illegally, that it was against the procedure prescribed under the Discipline & Appeal Rules, that the disciplinary authority had not decided the matter earlier within six months and it was not opened for the authority concerned to re-open the issue which had been settled by efflux of time. It is alleged by the applicant that he was not given effective opportunity of presenting his case and merely two formal questions were asked. The

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disciplinary authority ultimately passed an order Annexure A , as mentioned above, inflicting the penalty of stoppage of one year increment with future effect. The applicant preferred an appeal to the Divisional Railway Manager against the order passed by the disciplinary authority who dismissed the appeal of the applicant. The applicant has also challenged ~~that~~ the appellate order on the ground it was a mechanical order without application of mind, the copy of the decision of the appellate authority is not produced. The applicant then had preferred an appeal to the Chief Operating Superintendent vide memo of appeal dated 3rd September, 1984, the copy of which is produced at Annexure A-2 but according to the applicant it is not disposed of till today.

4. The applicant <sup>has</sup> neither produced the charge memo or any memo which he is referring in the application nor the appellate authorities order.

5. The respondents have filed detailed reply contending that the applicant was guilty as found by the disciplinary authority and confirmed by the appellate authority. The respondents have denied that the alleged incident took place in the year 1979 and have denied that the petitioner was exonerated from the charges nor was his case closed. The learned advocate for the applicant has submitted that ~~these~~ contentions are factually incorrect because according to him,

the alleged incident took place in the year 1979  
that there was no stay from the High Court as contended  
by the respondents.

6. The scope of judicial review by this Tribunal  
in the disciplinary matter is very limited. It appears  
that because of this settled position of law and since  
~~much~~  
~~the~~ time from 1979 has passed and as at present we are in  
1993 and still the matter is not over, The learned  
advocate for the applicant submitted that the applicant  
instead of getting order on merits may be permitted to  
make a representation to the respondents authority to  
consider his case and which authority if possible either  
may delete the punishment fully or at the most the  
stoppage of one increment be given without any future  
effect. The learned advocate for the applicant submitted  
that the applicant would be satisfied if he is allowed  
to make a representation accordingly. In our opinion,  
it is always open for the applicant to make representa-  
~~tion~~ <sup>in for</sup>  
tion and respondents to consider the request of the  
applicant. However, it is made clear that so far merits  
are concerned, this application is not pressed by  
applicant because the learned advocate for the applicant  
fully agreed that the applicant may be permitted to  
make a representation. Hence we pass the following order.

ORDER

~~In The~~  
Hence application is disposed of with observa-  
tion that the applicant may make representation to the  
respondents' concerned authority about lesser

punishment or about the deletion of punishment and  
if this representation is made the respondents may  
consider ~~disposition~~ that representation as early as possible.

No order as to costs.

*M.R.Kolhatkar*

(M.R.Kolhatkar)  
Member (A)

*Tenzil*  
(R.C.Bhatt)  
Member (J)

vtc.