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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 634 OF 1987
~~Ex. 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. Respondent(s)

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 ? ✗

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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

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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 reopen 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 ^{has} 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,

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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, ¹ 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 representation ^{for} 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 ~~Hence~~ The application is disposed of with observation 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
or ~~consider~~ *consider* that representation as early as possible.

No order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

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

vtc.