

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
No. Ex-Woo-B-Ex-1000

(1)

O.A. No. 323 OF 1989
XXXXXXDATE OF DECISION 11-08-1989.

Mr. Ahmedkhan M. Petitioner

Shri P.K. Handa Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.M. Joshi : Judicial Member

The Hon'ble Mr. M.M. Singh : Administrative 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

Ahmedkhan M.
Block No. 794 - H,
Freeland Ganj,
Sudaimata,
Dahod.

...Petitioner

(Advocate : Shri P.K. Handa)

Versus

1. Union of India,
Secretary, Ministry of Railways,
Rail Bhavan,
New Delhi.
2. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
3. Chief Workshop Engineer,
Western Railway,
Churchgate,
Bombay - 400 020.
4. Dy. Chief Mechanical Engineer,
Free landganj,
Western Railway,
Dahod.

...Respondents

(Advocate : Shri N.S. Shevde)

Coram : Hon'ble Mr.P.M.Joshi : Judicial Member

Hon'ble Mr.M.M.Singh : Administrative Member

O R A L - O R D E R

11-08-1989.

Per : Hon'ble Mr.P.M. Joshi : Judicial Member

The petitioner Shri Ahmedkhan M., who is working as Shunter at Dahod has filed this application under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the notice (Memorandum No. E/DAR/308/8/6/447, dated 17.7.1989), whereby the Chief Works Engineer has called upon the petitioner to show cause why the order of penalty of "reversion as Shunter in scale of Rs.1200-2040" be not reviewed and the order imposing the penalty of "removal from service" be passed. The impugned notice reads as under :

E/DAR/308/8/6/447

date : 17-7-1989.

MEMORANDUM

(3)

Shri Ahmedkhan M. Trial Driver, Erecting Shop, DHD is hereby informed that Dy. CME - DHD had served on him a memorandum No. 308/TD/AM (DAR) dt. 27.7.88 for major penalty on the charge of carelessness and negligent working. After considering his defence and conducting DAR enquiry DY. CME - Dahod has imposed the penalty of reduction as a Shunter scale Rs.1200-2040 (RP) at the minimum of the pay Rs.1200/- per month for a period of 6 months without future effect vide NIP No. E. 308/TD/AM (DAR) dt.31/3/89.

The undersigned in exercise of the power conferred by Rule 25 of the Railway Servant (Discipline & Appeal) Rules, 1968, has reviewed the case and propose to enhance the penalty to that of "Removal from Service".

Shri Ahmedkhan is given an opportunity for showing cause against the action proposed to be taken against him. Any representation which he may make in this connection will be considered by the undersigned. Such representation, if any should be submitted within 10 days of receipt of this memorandum by Shri Ahmedkhan.

(G.V.Himmatsinghani)
Chief Workshop Engineer.

2. When the matter came up for admission, we have heard Mr. P.K. Handa the learned counsel for the petitioners at a considerable length. According to him, when the Disciplinary Authority has passed the order of penalty of reversion as Shunter in the scale of Rs.1200-2040, after due consideration of the relevant facts and also having regard to the gravity of the charges and the findings arrived at by him, there are no valid grounds for the Chief Works Engineer (The Appellate authority), to review the case of the petitioner. In his submission, the impugned ~~orders~~ notice deserves to be quashed and set aside.

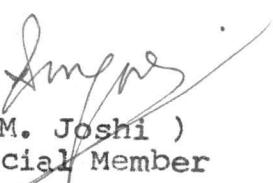
3. It is pertinent to note that no final order has been passed by the Chief Workshop Engineer. The

petitioner is given opportunity to make his representations or file his objections against the proposed action. The question of competence or otherwise of the authority concerned to review, is not challenged or disputed. The object of the present petition, in filing the present petition is nothing but an attempt to cause inroads in the proceedings undertaken by the competent authority under the Rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968. The petitioner will have enough opportunity to challenge the final order which may be passed against him by the competent authority. In case, after filing his representation, he is left with any remedy, he will have liberty to approach this Tribunal after exhausting all remedy available to him.

For the reasons stated above, we do not find any valid grounds to admit the present application. Accordingly, the same is rejected at the stage of admission.

M. M. Singh

(M.M.Singh)
Administrative Member


(P.M. Joshi)
Judicial Member