

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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AHMEDABAD BENCH

O.A. No. 328, 329 and 330 of 1989.
Exx No.

DATE OF DECISION 14.08.1989

Shri RPS? Yadav & Ors. Petitioner

Shri G.A. Pandit Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri R.M. Vin 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

(2)

Shri Ramsurat S. Yadav,
Gulabdas Ni Chawl,
Khand Bazaar,
Varacha Road,
Surat-6.

(O.A./328/89)

Shri Moti B. Yadav,
Gulabdas Ni Chawl,
Khand Bazar,
Varacha Road,
Surat-6.
(O.A./329/89)

Ramdular B. Yadav,
C/o. M.S. Patel,
Ramji Talira,
Valsad, Surat.
(O.A./330/89)

.. Petitioners

(Advocate - Mr. G.A. Pandit)

Versus

1. Union of India,
Through,
General Manager, W.Rly.,
Churchgate, Bombay.
2. Divisional Railway Manager,
W.Rly., Bombay Central,
Bombay.
3. Station Superintendent,
Western Railway,
Surat.

.. Respondents

(Common respondents in all
above applications)

(Advocate - Mr. R.M. Vin)

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

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

COMMON - ORAL - ORDER

O.A. Nos. 328, 329 and 330 of 1989

14.08.1989.

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

In this batch of cases (consisting of three
applications, namely O.A./328/89, O.A./329/89 and
O.A./330/89,) the petitioners namely Shri R.S. Yadav,

(3)

Shri R.B. Yadav and Shri M.B. Yadav, have filed these applications under section 19 of the Administrative Tribunals Act, 1985. They have challenged the validity of the order dated 25.7.1989 whereby a penalty of "removal from service", has been imposed upon them by the Disciplinary authority. According to them, they are not, so far, served with the impugned orders. However, it is stated by Mr. G.A. Pandit, the learned counsel for the petitioners that a copy of the impugned order filed in O.A./328/89 (Annexure A-3 P.B. page 27) has been obtained by them. It is alleged by the petitioners that they are wrongly subjected to a departmental proceedings and the action taken against them is illegal. They have, therefore, prayed that the impugned order be quashed and set aside and pending hearing and final disposal of the case, the same be stayed.

2. When the matter came up for admission, we have heard Mr. G.A. Pandit and Mr. R.M. Vin, the learned counsel for the petitioners and respondents respectively. It was strenuously urged by Mr. Pandit that there is no evidence against the petitioners that they were responsible for producing a "Forged document" or the service card and even the nature of accusations are such, that they cannot be subject matter of a departmental proceedings. According to him, the petitioners are willing to exhaust the remedy by preferring an appeal, but as there is no efficacious remedy available to them, they have approached the Tribunal. In his submission, the impugned order be stayed and the petitioners may be directed to exhaust the remedy available to them by

preferring an appeal. Mr. Vin, the learned counsel for the respondents, however, strongly opposed the admission of the application on the grounds inter alia that a serious charge of cheating has been levelled against the petitioners and once they are established and the orders of removal from services have been passed, the petitioners have to exhaust the remedy by preferring an appeal provided under the rules. We find ~~great~~ substance in the contentions raised by Mr. Vin, in this regard.

3. The petitioners are charged with serious misconduct of cheating the administration by producing bogus 'forged service card', for getting employment showing that they had worked as casual labour prior to 14.7.1981. The disciplinary authority in the impugned order has indicated that the impugned order is appealable one, under rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 and RCO CIT is an appellate authority. Now, as per section 20 of the Administrative Tribunals Act, 1985, the petitioners, before approaching the Tribunal, has to exhaust the remedies available to him under the relevant service rules for the redressal of his grievance.

4. The points agitated by Mr. Pandit, during the course of his arguments, can well be raised in the appeal before the appellate forum. He can also request the appellate authority to suspend or stay the operation of the impugned order. It is conceded that the petitioners have not exhausted the remedy available to them by preferring an appeal before the competent authority. The application, therefore, cannot be

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entertained at this stage. We direct that the applicants may file an appeal before the appellate authority and the appellate authority shall decide the same within four months from the date of receipt of the memo of appeal.

The merits of the applications are not decided and on the procedural grounds only, the applications (O.A. Nos. 328, 329 and 330 of 1989) are rejected summarily, at the stage of admission.

M. M. Singh

(M M Singh)
Administrative Member

PMJ
(P M Joshi)
Judicial Member

*Mogera