(2)

CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

C.A.NO. 24 of 1995 in
O.A. NO. 493 of 1989.
~~T.A.NO.~~

DATE OF DECISION 30-11-1995.

Mavsing Bhana Bard — Petitioner - Contempter

Shri J.J.Dave — Advocate for the Petitioner (s)

Versus

Shri Ravindra and Shri A.K.Chopra. — Respondent (Opponents)

Shri R.M.Vin — Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. K.Ramamoorthy : Member (A)

The Hon'ble Mr.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

Mavsing Bhana Bard,
Ex-Driver Loco Shed,
Jetalsar, Bhavnagar Dn. ...Contempter.

(Advocate : Mr.J.J.Dave)

Versus

1. Shri Ravindra,
The Union of India,
The General Manager,
Western Railway,
Churchgate,
Bombay - 1.

2. Shri A.K.Chopra,
The Divisional Railway
Manager, Bhavnagar Para. ...Opponents.

(Advocate : Mr.R.M.Vin)

J U D G M E N T

C.A.NO. 24 OF 1995 in

O.A.NO.493 OF 1989.

Dated: 30th November, 1995.

Per : Hon'ble Mr.K.Ramamoorthy : Member(A)

The present C.A. has been filed against the non-implementation of the order passed by this Tribunal in O.A./493/89, decided on 31-10-1994. By this order, an order of dismissal, later reduced compulsory retirement passed in a disciplinary proceeding was quashed on the ground of flaw in the enquiry proceedings and the respondents were directed to reinstate the applicant.

At the time of filing of the application the reinstatement had not been effected. In fact the applicant had not been reinstated till the date of his superannuation in February. But at the time of hearing on 31-7-1995, the respondents had reported compliance. The applicant was also informed about the fact of reinstatement vide letter dated 11-8-1995, which reads as under : -

"With reference to your application cited above, it is stated that, the case was put up to competent authority and has passed orders that, as per court's judgment, your orders for reinstatement as Goods Driver from 14-6-88, without back wages, has been issued vide this office orders No.EM/140/95, dtd. 11-5-95, which has already been sent to you by register A.D.

Regarding promotion, nothing is mentioned in court order, hence the promotion to higher grade cannot be considered.

This is for your information please".

The counsel for the applicant however, has contended that mere order of reinstatement would not mean proper implementation of the order. The counsel claimed that he was entitled to 12 day's leave salary. The applicant has also claimed that he should also have been given promotion which had become due to him during the period of his compulsory retirement and subsequent reinstatement, on the ground that this was a consequential benefit, and quoted the judgment of Shri Virendra Kharod Major Jo.(LPA,244-1985-GLR-1987-II-1030), in support.

The reply of the respondents in this connection dated 11-8-1995, referred to in para-2 above, has already explained the matter, by stating that the orders of the Tribunal were specific which have been complied with.

The operative portion of the Tribunal's order reads as under :

"The applicant was dismissed from service by initial order and Appellate order when there was no evidence in support of the charge. The order passed by the Reviewing Authority for compulsory retirement can also not be substantiated for the same reasons. We, therefore, quash the orders passed by the Disciplinary Authority, appellate authority and Reviewing Authority and direct the respondents to reinstate the applicant in service. So far as the question of back wages is concerned, the applicant had not

...4..

worked from the date of the order of the punishment and he was also getting pension after the conversion of punishment order into compulsory retirement. The amount of pension received by him during the period shall be deemed as an amount of back wages. The application is disposed of accordingly. No order as to costs".

As regards back wages, the order is definite and no further payment was envisaged as the amount of pension received by the applicant was deemed to be the amount of back wages.

As regards, consequential benefits consequent to reinstatement, such a mention is absent in the order. Even apart from this, whether the promotion is automatic with a post becoming available due to restructuring and with the juniors getting promoted, is not borne out from the facts of the case. As mentioned earlier, the departmental enquiry was found to be defective and hence, the disciplinary order was quashed. A fresh enquiry was not ruled out and in any case promotion order would be passed only after consideration of all aspects of the service record of an employee. If the applicant has a case for promotion it is a separate cause of action for which the applicant will have to both establish his case of it being a necessary 'consequential benefit' within the meaning of the judgments, the counsel for applicant had chosen to advance (vide 1993(1)GLH-11, K.K.R.Nair Versus Food Corporation of India and others, and Special Civil Application No.347-68, Dhari Gram Panchayat Vs. Shri Brahad Saurashtra Safai Kamdar Mandal, Rajkot,) and also establish his claim for promotion as per records and rules for promotion. The claim for leave salary for 12 days is again a separate claim for which he will have to apply separately.

From the above it is seen that there has been no case of any wilful disobedeience of the order as passed by the Tribunal and hence, the contempt notice is discharged.

No order as to costs.

(K.Ramamoorthy)
Member(A)

ait.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. CA/24/95 in OA/493/93

Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated : 08/01/95

Countersign :

Signature of the Dealing Assistant

8/1/96.

Section Officer.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

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CAUSE TITLE CA/24/95 in OA/493/93

NAME OF THE PARTIES Mansingh Bhanu

VERSUS

U.O.I. & Ors

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BEFORE THE HONOURABLE THE CENTRAL ADMINISTRATIVE TRIBUNAL

A H M E D A B A D. OA 493-89

CA 24-95.

MAVSINGH BHANA APPLICANT.

VERSES.

THE U.O. I RESPONDENTS

S Y N O P SI S

In the judgement passed by the honourble the Tribunal on 31-10-94 it was directed that the charge sheet is set aside and quashed along with the ordres in appeal as well as REVIEW.

2. The Honourble the Tribunal have passed the ordres that the back wages should be adjusted since he was paid pension. In fact the applicant was not satisfied and he raised his voice.

3. It is the submission of the applicant that though the Judgement was deliverd he was not reinstated in the Railway till he finally retired on 29-2-95. Thus four months time was wasted by the respondent railway.

4. The applicant strongly feels that since the " BACK WAGES" are not granted it is other vise amply clear that the other benifits are to be granted af if such an order would not have existed.Since the period of 1-11-94 to 29-2-95 has been treated as duty and payments have been ordered the leave salary of 4 months to the tune of I2 days Leave on average pay should have been paid. This has not been paid by the other side. Omly the difference of the leave salary has been paid. Thus the credit of I2 days should be given and payments be paid and as such the Honourable Tribunal may be pleased to issue suitable directions.

5. The judicial precedents of the HIGH court are bound to be followed keeping in view of the obseravtions by the Honourable the Gujrat High Court in terms of GLH I982-I055 (COPY ENCLOSED) 'A'

6. Similar observation were made by the Division Bench consisti ng the Honourable Justice B.A. DESAI & R.B. MISHRA (I983 GLH-273) Copy enclosed. 'B'

7. The Honourable Tribunals are defined as " SUBSTITUTE COURTS" as defined in the case of SHRI Marmanand (AIR I989 SC II35) Copy attached. - PARA 11 'C'

8. The applicant submits that similar situation arosed in an identical matter of SHRI VIRENDRA KHAROD Major Jo. LPA 244-I985 where the Honourable Justice R.C. Mankad observed

" we therefore confirm the orders passed by the learned single judge quashing and setting aside the impugned orders at annexture R, S & W to the petition special civil application no. 497 of I98I. We also confirm the declaration given by him that the respondent continues in service without any break. He is entitled to all the consequential benifits as if the impugned orders were not passed at all.It is true that as a result of such declaration, the respondent would not only be entitled to the monetray benifits such as pay and allowances revised pay scale if any etc but also to other benifits such as earned leave or encashment of leave which he has not been able to enjoy and the benifits of the leaveTravel concession promotions etc.

But once the dismissal order is held to be illegal and the respondent is reinstated in the service,these are consequential benifits which flow automatically from his reinstatement in service. In other words the respondent would be entitled to all the benifits as if the dismissal ordres would not have passed. (THUS PARA I5 at Page NO. I030 are quite clear GLR I987 part 2 page I030 Copy of the judgement is attached herewith)

9. The applicant submits that he was to be reinstated from I-11-94 and after that the promotion ordres of his erstwhile juniors were issued in between of I-II-94 to 29-2-95 as Mail Experss and pass drivers. But his case was not considerd.

Here the observation of the High Court of Gujarat are enclosed

1993 (1) 92H-11 V.V.R NAIR V/S F.C.S.

The copy of the promotions of the Juniors were already handed over at the time of hearing. More documents are attached as annexture (P-1)

I0. DHARI GRAM PANCHAYAT (SPECIAL CIVIL APPLICATION NO.347-68)

Division Bench consisting of Honourabele Judtices D.A DESAI & PD DESAI.

In para 22 their lordships observed at page 307 GLR I97I as under.

"The discretion could not be said to have been exercised on sound judicial principle and if the order of the Tribunal is confirmed we would be the party to inflicting penalty on the workman for no fault of theirs. Imposing the penalties without fault is against is against all judicial cannons of justice & fair play. Viewed from this angle....."

Thus to deny the promotions is to inflict thenpanlties. Such observation are to be seen from the Judicial angle and on the sound principles of the Jurisprudence especailly when the applicant has been reinstated and chrge sheet has been set aside and quashed the consequential flow of the previlages are AUTOMATIC and this Honourable The Tribunal Should not be the party to have such penalty by depriving the applicant who all along have sufferd since last 7 years. This is going to have serious effects on the retiring age by way of pensiion and pensionary benifits.

Thus it is once again submitted to follow the settled law without any discreminations and expect and pray with the folded hands to impart due justice by granting due promotions and leave salayay of the left out days.

II. It is also submitted that the respondents were apprised of all this in the open Court on 31-7-95 and they have recorded the commitment before the Honourable Justice that if the applicant is due for his promotions he will be given as per rule and this was also recorded on that very date on 31-7-95 and on 31-8-95 the same was to implemented and as such the Honourable justice granted ONE MONTH TIME which was aggeed upon by the applicant.

(F)
AIR 1962
SC 1554
(P. 1337)

1992 LABSC
1590

I2 The applicant also submit that there are catana of judgements and by bringing them all before the Honourable Tribunal would not be correct. More so to religate him and to instruct to file the second matter will also be the RELIGATION & DENIAL OF REAL JUSTICE It is therefore requested to grnat the due promotions as if the applicant would have been in service. The excuse of so called formalities is a vague and uncalled for. There was a time of 120 days before the applicant was due to retire on 29-2-95.

RELIEFS PRAYED.

(1) Following the settled law the applicant may be granted deemed promotions from the date on which his erstwhile juniors were promoted and his pensionary benifits may be revised as such.

(2) To grant the leave salary of I2 days which has not been paid

The applicant is having high hopes that his genuine requests and reliefs will be definatly granted by the Honourable Tribunal.

Dated 9-9-95

J.J. DAVE.
(Advocate of the applicant)

ટેકનીકલ રીતનો

ચાલે

૧૨ GLR.

ચાલવાયું આવેલ
SP
court 1977

LPA

GLR 1987 (2) 1020

UNION of INDIA

V/S

MAJOR VIRENDRA J. KHAROD

SLR. 1988 (1) પાર 7013

જસ્ટીસ રંગનાથમીશ્રા. and
V. ખાલિદ.

રાધાકાંત ઝા
V/S
chief comm and oths

314 of ways.

Termination
on the ground
of unsuitability

version was duly authenticated version reflecting satisfaction arrived at by the detaining authority on that basis, the matter would have stood on entirely as a different footing and we would have unhesitatingly rejected the contention of the learned advocate for the petitioner that the satisfaction was in any way equivocal or confusing. With that end in view, we requested the learned counsel for the respondents to point out to us whether Gujarati versions of the detention orders as served on the detenus were mere translations or whether Gujarati versions reflected the original orders passed by the detaining authority being so satisfied. The learned counsel for the State of Gujarat frankly stated on perusal of the relevant files that Gujarati versions of the detention orders supplied to the detenus were mere free translations and were not authenticated by the detaining authority. Therefore, the Gujarati versions must be treated to be translations and that too free translations and that cannot be considered to be the repository of the original satisfaction arrived at by the detaining authority about the need to detain the concerned detenus on the basis of such satisfaction. At the highest, it can be said to be satisfaction of the translator but not of the detaining authority. Under these circumstances, reliance placed by the learned counsel for the respondents on *Binod Bihari v. State of Bihar*, AIR 1974 SC 2125 wherein the Supreme Court had upheld the detention order when English version deferred from the Hindi version and when Hindi version was found to be accurate and could sustain the detention order, will be of no avail to the respondents. Consequently, even the last attempt made by the learned advocate for the respondents to sustain the orders of detention is found to be abortive.

(The rest of the Judgment is not material for the reports.)

(ATP)

Rule made absolute.

*

LETTERS PATENT APPEAL

Before the Hon'ble Mr. Justice R. C. Mankad and
the Hon'ble Mr. Justice P. M. Chauhan.

UNION OF INDIA & ORS. v. MAJ. VIRENDRARAI J. KHAROD*

Constitution of India, 1950 – Arts. 226, 136 – Army Act, 1950 (XLVI of 1950) – Secs. 83, 84 – Army Rules framed under sec. 191 – Rules 22, 23, 24,25 – The High Court has writ jurisdiction over General Court Martial – Where a Commanding Officer has held an investigation and he recorded the finding that the charges were disproved, there was no question of convening a General Court Martial – The finding of guilt recorded by the General Court Martial is liable to be quashed by a writ of certiorari.

Rule 25 does not specifically refer to Rule 24. In the absence of such reference, the question arises whether it was open to the Commanding Officer to refer the respondent's case to the superior military authority under clause (b) of Rule 24(1). Now, even if we read note-2 below Rule 25 along with the said rule, it would

*Decided on 15-7-1987. Letters Patent Appeal No. 244 of 1985 against the Judgment on Special Civil Application No. 497 of 1981. (Reported in 26(2) GLR 963).

appear that three courses were open to the C. O, namely, (i) to dismiss the charge or case; (ii) to refer the case to a superior authority for summary disposal under sec. 83 or 84 of the Army Act; or (iii) to refer the case for trial by Court-martial. Reference of the case to superior authority is confined to summary disposal under sec. 83 or 84 of the Army Act. Sec. 83 provides for minor punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others, while sec. 84 provides for punishment of officers, junior commissioned officers and warrant officers by area commanders and others. Admittedly, the C.O. had not referred the case of the respondent to the superior authority for summary disposal under the said sections Therefore, only two courses were open to the C.O. under Rule 25, which provides for procedure on charge against officers, namely, (i) to dismiss the charge; or (ii) to remand the respondent for trial by Court-martial. The C. O. did not remand the respondent for trial by Court-martial. Therefore, the only course open to him was to dismiss the charge. He could not have referred the respondent's case to the superior military authority under clause (b) of Rule 24(1). (Para 9)

A combined reading of Rules 22, 25 along with Note-2, Rule 37 and Regulation 405 makes it clear that if in the opinion of the C.O., evidence does not show that offence under the Army Act has been committed, he has to dismiss the charge brought before him. It is only, if he is satisfied that charges to be tried by Court-martial are for offences within the meaning of the Army Act and that the evidence justifies trial on those charges, that he could convene General Court-martial. However, if he is not so satisfied, he has to dismiss the charges and release the accused officer. He may, in such a case refer the case to the superior authority, but that is not for the purpose of convening a Court-martial. No provision in the Army Act and the Rules and Regulations framed thereunder is pointed out which shows that in case where the C.O. holds that no offence under the Army Act is committed and the accused officer is not guilty, the superior authority, to whom the case is referred, is empowered to convene Court-martial for the trial of the accused officer. Once the charges are held not proved, the C.O has no option but to dismiss the charges. (Para 12)

Under the circumstances, under Rule 22 read with Rule 25, the C.O. was bound to dismiss the charge. In fact, as pointed out, he has dismissed the charges when he says that the charges stand automatically dismissed. In the fact of this clear and unambiguous opinion expressed by the C.O. it is not open to the appellants to contend that the charges against the respondent were not dismissed. The C.O could not have referred the case to the superior military authority under Rule 24(1)(b) even if that rule is held to be applicable. The superior military authority had no authority or jurisdiction to convene General Court-martial for the trial of the respondent. There is no question of the superior authority disagreeing with the recommendations made by the C.O. and direct trial of the respondent by General Court-martial. (Para 13)

It is not disputed that once it is held that the C.O. had dismissed the charges against the respondent, General Court-martial could not have been convened to try respondent. It must, therefore, be held that trial of the respondent by General Court-martial was illegal and without jurisdiction and consequently the decision rendered by the General Court-martial deserves to be quashed. (Para 15)

Major Parvesh Chander Suri v. Union of India (1), referred to.

S. R. Shah, Standing Counsel for the Appellants.

M. R. Anand with *M. D. Rana*, for the Respondent.

MANKAD, J. In this appeal directed against the judgment and order passed by the learned single Judge, mainly two questions arise for our consideration : (i) Whether the High Court had jurisdiction to

(1) 1987 (2) GLR 1043.

entertain the respondent's petition under Art. 226 of the Constitution of India; and (ii) whether a General Court Martial was legally and validly convened. If both these questions are answered against the appellants, this appeal shall have to be dismissed. The aforesaid two questions arise in the backdrop of the following facts.

2. The respondent, who is a Civil Engineering graduate, joined the military service as a 2nd Lieutenant in the Corps of Engineers on December 11, 1962. He was directly promoted on an accelerated promotion from 2nd Lieutenant to Captain. He was thereafter promoted as Major. The respondent was posted as Garrison Engineer at Baroda on May 5, 1972. According to the respondent, while he was serving as Garrison Engineer at Baroda, he came in conflict with his superior officer Lt. Col. Sundaram, who was the Commander Works Engineer, as he declined to comply with unreasonable requests, which were contrary to the rules, made by the said superior officer. The respondent alleged that he was subjected to harassment due to unreasonable attitude adopted by Lt. Col. Sundaram in various matters. It is alleged that a vigilance check of the work done by the respondent was made at the instance of Lt. Col. Sundaram, but nothing objectionable was detected. However, Lt. Col. Sundaram appointed at Board of Officers on August 29, 1974 to investigate the circumstances in which excess provisioning in the divisional stock was ordered by the respondent's office and also to verify whether purchases of stores and works carried out through local Bazar agencies on supply orders during April to July 1974, were in accordance with the prescribed procedure. According to the respondent, the finding recorded by the Board of Officers were in his favour. However, the Commander Works Engineers disagreed with those findings and referred the matter to the Chief Engineer, West Coast, Bombay. The matter was then referred to the Headquarters B.S.A., which directed Station Headquarters, Baroda to hold a Staff Court of Enquiry to investigate into the case. Accordingly, Station Headquarters, Baroda, by its order dated December 20, 1974, appointed a Court of Enquiry. The proceedings before the Court of Enquiry were over on April 30, 1975, when the respondent was permitted to leave Baroda and join his parent unit, *viz.* 36 Unit Border Road Task Force. The report of the Court of Enquiry was submitted in June 1975. On the basis of the said report, the Commander, B.S.A. ordered that formal disciplinary action should be taken against the respondent. Thereafter, on or about February 23, 1976, the respondent was directed to report back to Baroda. For investigation of the charges, a summary of evidence was to be recorded. The evidence was recorded between May and August 1976. The Commanding Officer ('C.O.' for short) after examining the evidence found that the charges levelled against the respondent were baseless and they were either disproved or not proved. He gave his opinion on August 31, 1976. Relevant part thereof reads as follows :

"1. After going through the complete evidence I am convinced that the charges framed against the accused officer, IC-13851 L Major V. J. Kharod are thoroughly

baseless, are either 'disproved' as established beyond even any semblance or element of doubt and therefore, stand automatically dismissed.

2. I am like any other prudent man with reasonable understanding and normal common sense, convinced that the officer is not at all guilty of any of the charges framed against him and recommend, without even slightest hesitation, that the officer be exonerated and be reverted back to his corps duties with full honour, which he richly deserves.

3. .. that this officer in normal course, could have been recommended for a commendation in recognition of such high standard of integrity and loyalty displayed by him, instead of being condemned as is done due to possibly a wrong initiation of case from certain quarters.

4. From the evidence recorned, certain glaring peculiarities of the case have been noticed by me and I would like to highlight them since I, as much as any prudent man with reasonable knowledge and normal common sense, am convinced that there appears to be something unusual about the manner in which the case was initiated and conducted.....

x x x

8. It is thus proved beyond any doubt that no offence in respect of this charge was committed and as such Maj. V. J. Kharod, the accused is not guilty of any offence. Thus the charge is not proved.

x x x

10. Thus the second charge is disproved beyond any doubt as any prudent man with reasonable knowledge and normal common sense will be convinced in his mind and as such Maj. V. J. Kharod is not guilty of any offence.

x x x

12. Thus, this charge is disproved and Major V. J. Kharod is not guilty of any offence.

13. In view of above, I recommend that Major V. J. Kharod be exonerated of all the three charges and reverted back to his crops with full honour."

3. It would thus appear that the C.O. recorded a clear finding that the charges were disproved and the respondent was not guilty of any offence. He, therefore, recommended that the respondent be exonerated of all the three charges and reverted back to his corps with full honour. The respondent alleged that although the charges levelled against him were dismissed a General Court Martial was convened to try him for those charges. The respondent objected to the convening of a General Court Martial and raised a plea-in-bar, but that plea was overruled. The General Court Martial found the respondent guilty of all the charges and ordered his dismissal from service subject to the confirmation by the higher authority. The Chief of Army Staff agreed with the findings recorded by the General Court Martial and confirmed the punishment by his order dated May 9, 1978. The respondent thus came to be dismissed from service. The respondent preferred an appeal to appellant No. 1 Union of India, but this appeal was dismissed on January 2, 1980. As no reasons were communicated to the respondent for the dismissal of his appeal, he applied for the same. However, inspite of repeated requests and reminders made by the respondent, on reasons were supplied to him. The respondent, therefore, approached this Court by way of petition being Special Civil Application No. 497 of 1981 under Art. 226 of the Constitution of India.

4. The appellants denied the allegations made by the respondent in his petition and contended *inter alia* that (i) the High Court had no jurisdiction to entertain the petition made under Art. 226 of the Constitution against the order passed by the General Court Martial; and (ii) the General Court Martial had not acted without jurisdiction in passing the order of dismissal against the respondent. It is not necessary to set out other contentions raised by the appellants since, the learned single Judge has allowed the petition filed by the respondent, holding that (i) the Court had jurisdiction to entertain the petition under Art. 226 of the Constitution; and (ii) the convening of the Court Martial being illegal, the order passed by it was illegal without jurisdiction. Being aggrieved by the order passed by the learned single Judge, the appellants have preferred this appeal. The appellants have reiterated the above contentions raised before the learned single Judge and contended that the respondent is not entitled to any relief.

5. The first contention which is raised on behalf of the appellants is whether the learned single Judge was right in holding that this Court had jurisdiction to entertain the petition under Art. 226 of the Constitution. Mr. S. R. Shah, learned counsel for the appellants contended that under clause (4) of Art. 227 of the Constitution, the High Court does not have power of superintendence over any Court or Tribunal constituted by or under any law relating to Armed Forces. The General Court Martial, which found the respondent guilty of the charges levelled against him was convened under sec. 109 of the Army Act. The High Court, therefore, does not have power of superintendence over the Court Martial under clause (4) of Art. 227 of the Constitution. It was submitted that since the jurisdiction of the High Court has been specifically excluded, the Court Martial is not amenable to the jurisdiction of the High Court under Art. 226 also. It was submitted that the High Court had no jurisdiction to issue any writ, order or direction under Art. 226 of the Constitution to the Court Martial It was submitted that no writ of any kind, including writ of certiorari, can be issued by the High Court against the Court Martial and, therefore, the learned single Judge was not right in entertaining the respondent's petition under Art. 226 of the Constitution. The above contentions raised by the learned counsel for the appellants have been elaborately discussed by us in our judgment in *Major P. C. Suri v. Union of India and Others*, 1987 (2) GLR 1043 Letters Patent Appeal No. 297 of 1983 delivered by us today. For the reasons recorded in our said judgment, we have held that this Court has jurisdiction to issue writs including writ of certiorari to the General Court Martial. As pointed out by the appellants' learned counsel, the High Court, in view of the provisions of Art. 227 (4) does not have power of superintendence over the Courts Martial. Art. 136 expressly excludes Courts Martial from the jurisdiction conferred upon the Supreme Court to grant special leave to appeal. But there is no such exclusion in Arts. 32 and 226. In our opinion, the Courts Martial set up under the Army Act, Air Force Act and Navy Act are the tribunals

which would be amenable to the writs of mandamus, prohibition and certiorari under Art. 226. Neither the Parliament nor the State Legislatures can take away the jurisdiction of the Supreme Court or High Court to issue writs mentioned in Arts. 32 and 226. It is a settled position of law that in relation to persons, bodies or tribunals, having legal authority to determine questions affecting rights of citizens and having a duty to act judicially, a writ of mandamus is appropriate to compel the tribunal to exercise jurisdiction vested in it by law which it refuses to exercise. Prohibition is appropriate to restrain a tribunal which threatens to assume or assumes a jurisdiction not vested in it so long as there is something in the proceedings left to prohibit. Certiorari is appropriate to quash the decisions of a tribunal which has assumed a jurisdiction it does not possess or where the order contains an error of law apparent on the face of the record. Whereas mandamus is not restricted to persons charged with a judicial or *quasi judicial* duty, prohibition and certiorari can issue only if the person, body or tribunal is charged with judicial or *quasi judicial* duties. As held by us in our judgment in *Major P. C. Suri's case* (supra), General Court Martial is amenable to the jurisdiction of this Court under Art. 226 of the Constitution. It is not disputed by the appellants that the General Court Martial, in passing the impugned order, exercised judicial or *quasi judicial* functions. This is also evident from the relevant provisions of the Army Act, 1950 and Rules framed thereunder. This Court, therefore, has power to issue a writ of certiorari to quash the decision of the General Court Martial, which has assumed jurisdiction, which it did not possess or where the order contains error of law apparent on the face of the record. We, therefore, reject the appellants' contention that this Court has no jurisdiction to entertain the respondents' petition under Art. 226 of the Constitution.

6. This brings us to the second contention raised by the appellants, namely that the General Court Martial had not acted without jurisdiction in passing the order of dismissal against the respondent. In order to appreciate this contention, it is necessary to read the relevant rules of the Rules known as Army Rules made by the Central Government in exercise of powers conferred by sec. 191 of the Army Act, 1950. Relevant rules are Rules 22, 23, 24 and 25. They read as follows :

"22. Hearing of charge :

(1) Every charge against a person subject to the Act other than an officer, shall be heard in the presence of the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witness and make any statement in his defence.

(2) The commanding officer shall dismiss a charge brought before him if in his opinion the evidence does not show that an offence under the Act has been committed, and may do so if, in his discretion he is satisfied that the charge ought not to be proceeded with.

(3) At the conclusion of the hearing of a charge, if the commanding officer is of opinion that the charge ought to be proceeded with, he shall without unnecessary delay –

(a) dispose of the case summarily under sec. 80 in accordance with the manner and form in Appendix III, or

(b) refer the case to the proper superior military authority; or

(c) adjourn the case for the purpose of having the evidence reduced to writing: or

(d) if the accused is below the rank of warrant officer, order his trial by a summary court-martial;

Provided that the commanding officer shall not order trial by a summary court-martial without a reference to the officer empowered to convene a district court-martial or an active service a summary general court martial for the trial of the alleged offender unless either –

(a) the offence is one which he can try by a summary court-martial without any reference to that officer; or

(b) he considers that there is grave reason for immediate action and such reference cannot be made without detriment to discipline.

23. Procedure for taking down the summary of evidence :

(1) Where the case is adjourned for the purpose of having the evidence reduced to writing, at the adjourned hearing evidence of the witnesses who were present and gave evidence before the commanding officer, whether against or for the accused, and of any other person whose evidence appears to be relevant, shall be taken down in writing in the presence and hearing of the accused before the commanding officer or such officer as he directs.

(2) The accused may put in cross-examination such questions as he thinks fit to any witness, and the questions together with the answers thereto shall be added to the evidence recorded.

(3) The evidence of each witness after it has been recorded as provided in the rule when taken down, shall be read over to him, and shall be signed by him, or if he cannot write his name shall be attested by his mark and witnessed as a token of the correctness of the evidence recorded. After all the evidence against the accused has been recorded, the accused will be asked : "Do you wish to make any statement ? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence." Any statement thereupon made by the accused shall be taken down and read over to him, but he will not be cross-examined upon it. The accused may then call his witnesses as to character;

(4) The evidence of the witnesses and the statement (if any) of the accused shall be recorded in the English language. If the witness or accused, as the case may be, does not understand the English language, the evidence or statement, as recorded, shall be interpreted to him in a language which he understands.

(5) If a person cannot be compelled to attend as a witness, or if owing to the exigencies of service or any other grounds (including the expense and loss of time involved), the attendance of any witness cannot in the opinion of the officer taking the summary (to be certified by him in writing), be readily procured, a written statement of his evidence purporting to be signed by him may be read to the accused and included in the summary of evidence.

(6) Any witness who is not subject to military law may be summoned to attend by order under the head of the commanding officer of the accused. The summons shall be in the form provided in Appendix-III.

24. Remand of accused :-

(1) The evidence and statement (if any) taken down in writing in pursuance of Rule 23 (hereinafter referred to as the 'summary of evidence'), shall be considered by the commanding officer, who thereupon shall either –

(a) remand the accused for trial by a court-martial; or

(b) refer the case to the proper superior military authority; or

(c) if he thinks it desirable, re-hear the case and either dismiss the charge or dispose of it summarily.

(2) If the accused is remanded for trial by a court-martial, the commanding officer shall without unnecessary delay either assemble a summary court-martial (after referring to the officer empowered to convene a district court-martial or on active service a summary general court-martial when such reference is necessary) or apply to the proper military authority to convene a court-martial, as the case may require.

25. Procedure on charge against officer :

(1) Where an officer is charged with an offence under the Act, the investigation shall, if he requires it, be held, and the evidence, if he so requires, be taken in his presence in writing, in the same manner as nearly as circumstances admit, as is required by Rules 22 and 23 in the case of other persons subject to the Act.

(2) When an officer is remanded for the summary disposal of a charge against him or is ordered to be tried by a court-martial, without any such recording of evidence in his presence, an abstract of evidence to be adduced shall be delivered to him free of charge as provided in sub-rule (7) of rule 33."

7. Rules, 22, 23 and 24 provide for investigation of a charge against a person subject to the Act but other than an officer. Rule 25 provides for investigation of a charge against an officer. In the case of a person other than an officer, initially oral enquiry is to be made. If as a result of such an oral enquiry, the C. O. is of the opinion that the evidence does not disclose that an offence under the Act has been committed, he has to dismiss the charge. Even in the case where the evidence discloses commission of an offence, the C. O. may in his discretion dismiss the charge, if he is satisfied that charge ought not to be proceeded with. However, if he is of the opinion that charge ought to be proceeded with, he has to adopt one of the three courses mentioned in sub-rule (3) of rule 22. In case he decides to proceed under rule 22(3)(c), the procedure prescribed by rule 23 is required to be followed for the purpose of recording evidence and the statement of the accused. Thereafter, the C. O. has to adopt one of the three courses mentioned in rule 24. In the case of an officer, rule 25, provides for investigation of the charge in the manner prescribed by rules 22 and 23 only if the officer so requires. Sub-rule (2) of rule 25 provides that in case an officer is remanded for the summary disposal of a charge against him or is ordered to be tried by a Court martial without recording of evidence in his presence, an abstract of evidence to be adduced shall be delivered to him free of charge. It is pertinent to note that rule 25 makes no reference to rule 24.

8. It is not disputed that in the instant case, evidence was recorded in writing in the manner prescribed by rules 22 and 23 in the presence of the respondent. After evidence was recorded as aforesaid, the C. O. recorded the opinion, relevant portion of which is reproduced hereinabove. It is submitted on behalf of the appellants that the C. O. had not dismissed the charge against the respondent under sub-rule (2) of rule 22, but had decided to refer the respondent's case to the superior military authority for decision under clause (b) of sub-rule (1) of rule 24. It is submitted that though rule 25 does not refer to rule 24, the

C. O. had power to resort to any of the three courses open to him under rule 24. It is submitted that rule 25 has to be read along with note-2 below the rule. This note, according to the appellants, forms part of rule 25 and if this note is read along with rule 25, it is clear that the C. O. had power to refer the respondent's case to his superior military authority. Note-2 to rule 25 reads as under :

"2. In the case of an officer, as in that of other persons, the charge must come before the C O in order that the latter may determine whether it shall be dismissed or the case referred to a superior authority for summary disposal under AA secs. 83 or 84 or for trial by court-martial. Under this rule the CO can dispense with a formal and detailed investigation unless the accused officer demands one. It does not preclude the CO from calling the officer and investigating the case as he may deem necessary. The officer can only demand formal investigation of his case by the CO; he has no right under this rule to demand a court of inquiry."

9. Relying on this note, it was submitted that the C. O. could have referred the case to the superior military authority under clause (b) of rule 24(1). We have earlier pointed out that rule 25 does not specifically refer to rule 24. In absence of such reference, the question arises whether it was open to the C. O. to refer the respondent's case to the superior military authority under clause (b) of rule 24(1). Now, even if we read note-2 below rule 25 along with the said rule, it would appear that three courses were open to the C. O., namely, (i) to dismiss the charge or case; (ii) to refer the case to a superior authority for summary disposal under sec. 83 or 84 of the Army Act; or (iii) to refer the case for trial by Court martial. Reference of the case to superior authority is confined to summary disposal under sec. 83 or 84 of the Army Act. Sec. 83 provides for minor punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others; while sec. 84 provides for punishment of officers, junior commissioned officers and warrant officers by area commanders and others. Admittedly, the C. O. had not referred the case of the respondent to the superior authority for summary disposal under the said sections. Therefore, only two courses was open to the C. O. under rule 25, which provides for procedure on charge against officer, namely, (i) to dismiss the charge; or (ii) to remand the respondent for trial by Court-martial. The C. O. did not remand the respondent for trial by Court martial. Therefore, the only course open to him was to dismiss the charge. He could not have referred the respondent's case to the superior military authority under clause (b) of rule 24(1).

10. Sec. 108 of the Army Act provides that there shall be four kinds of courts-martial, that is to say, - (a) General Court-martial; (b) District Courts-martial; (c) Summary General Courts-martial, and (d) Summary Courts-martial. Sec. 109 lays down that a General Court-martial may be convened by the Central Government or the Chief of the Army Staff or by any officer empowered in this behalf by warrant of the Chief of the Army Staff. Rule 37 provides for convening of General and District Court-martial. Sub-rule (1) of rule 37 which is relevant for our purpose reads as under :

"37. (1) An officer before convening a general or district court-martial shall first satisfy himself that the charges to be tried by the court are for offences within the meaning of the Act, and that the evidence justifies a trial on those charges, and if not so satisfied, shall order the release of the accused, or refer the case to superior authority."

It is, therefore; evident that unless the C. O. was satisfied that the charges to be tried by Court are offences within the meaning of the Army Act and evidence justifies a trial of those charges, he should not convene General Court-martial.

11. Clauses (a) and (c) of regulation 405 of the Army Regulations which deal with disposal by C. O. and sending before a Court-martial also throw light on the subject under discussion. These Clauses read as under :

"(a) There is no offence which a commanding officer is compelled by law or by rules to send before a court-martial and each case should be considered on its merits, but a commanding officer should not, of course, dispose of summarily a case which he is debarred by Army Act, sec 120 2) from trying by summary court-martial without reference to a superior authority, or any other case which obviously deserves a more severe punishment than he is empowered to award summarily.

x x x

(c) Except when it is important that the guilt or innocence of the accused should be definitely decided, it is undesirable to send a case before a court-martial when it appears doubtful whether the evidence will lead to a conviction. In such a case the charges should ordinarily be dismissed under the provisions of the Army Rule 22(2)."

12. Combined reading of rules 22, 25 along with note-2, rule 37 and regulation 405 makes it clear that if in the opinion of the C. O., evidence does not show that offence under the Army Act has been committed, he has to dismiss the charge brought before him. It is only, if he is satisfied that charges to be tried by Court-martial are for offences within the meaning of the Army Act and that the evidence justifies trial on those charges, that he could convene General Court-martial. However, if he is not so satisfied, he has to dismiss the charges and release the accused officer. He may, in such a case, refer the case to the superior authority, but that is not for the purpose of convening a Court-martial. No provision in the Army Act and the Rules and Regulations framed thereunder is pointed out to us which shows that in a case where the C. O. holds that no offence under the Army Act is committed and the accused officer is not guilty, the superior authority, to whom the case is referred, is empowered to convene Court-martial for the trial of the accused officer. Once the charges are held not proved, the C. O. has no option but to dismiss the charges.

13. We do not find any substance in the appellants' contention that charges against the respondent were not dismissed by the C. O. We have set out hereinbefore relevant portion of the opinion of the C. O., wherein it is clearly stated that the C. O. was convinced that the charges farmed against the respondent were thoroughly baseless

and were either "disproved" or "not proved" as established beyond even any semblance or element of doubt and *therefore, stand automatically dismissed.* (underline supplied). The C. O. further went on to observe : "It is thus proved beyond any doubt that no offence in respect of this charge was committed and as such Major V. J. Kharod was not guilty of any offence. Thus the charge in held not proved". The C. O. also stated : "charge was disproved and the respondent was not guilty of any offence". In terms the C. O. recommended that the respondent "be exonerated off all the three charges and reverted back to his corps with full honour". Thus there is no doubt whatsoever that the C. O. had recorded a clear finding that charges against the respondent were not proved and that he was not guilty of any offence. Under the circumstances, under rule 22 read with rule 25, the C. O. was bound to dismiss the charge. In fact, as pointed out above, he has dismissed the charges when he says that the charges stand automatically dismissed. In the fact of this clear and unambigous opinion expressed by the C. O. it is not open to the appellants to contend that the charges against the respondent were not dismissed. The C. O. could not have referred the case to the superior military authority under rule 24(1)(b) even if that rule is held to be applicable. The superior military authority had no authority or jurisdiction to convene General Court-martial for the trial of the respondent. There is no question of the superior authority disagreeing with the recommendations made by the C. O. and direct trial of the respondent by General Court-martial.

14. No other point was canvassed before us.

15. We, therefore, fully agree with the reasonings and conclusions reached by the learned single Judge and hold that the C.O. had dismissed the charges against the respondent. It is not disputed that once it is held that the C.O. had dismissed the charges against the respondent, General Court-martial could not have been convened to try the respondent. It must, therefore, be held that trial of the respondent by General Court-martial was illegal and without jurisdiction and consequently the decision rendered by the General Court-martial deserves to be quashed. We, therefore, confirm the order passed by the learned single Judge quashing and setting aside the impugned orders at Annexures 'R', 'S' and 'W' to the petition-Special Civil Application No. 497 of 1981. We also confirm the declaration given by him that the respondent continues in service without any break, and is entitled to all the consequential benefits as if the impugned orders were not passed at all. It is true that as a result of such a declaration, the respondent would not only be entitled to all the monetary benefits, such as pay and allowances, arrears of pay and allowances, revised pay scale if any, etc. but also to other benefits such as earned leave or encashment of leave, which he has not been able to enjoy and the benefits of leave travel concession, promotions etc. But once the dismissal order is held to be illegal and the respondent is reinstated in service, these are consequential benefits which flow from his reinstatement in service. In other words, the respondent would be entitled to all the benefits

as if dismissal order were not passed and he continues to be in service. So far as the back wages or salary is concerned, as held by the learned single Judge, he will not be entitled to such salary only to the extent it is established that he was gainfully employed. In other words, deduction from the back wages and other benefits due to him will be made only to the extent of the amount which he is proved to have earned by being gainfully employed. We thus confirm the reliefs granted by the learned single Judge.

16. In the result, this appeal fails and is dismissed with no order as to costs.

17. Mr. S. R. Shah, learned counsel for the appellants prays for a certificate for appeal to the Supreme Court under Art. 134A of the Constitution of India. In our opinion, this case does not involve a substantial question of law of general importance which needs to be decided by the Supreme Court. We, therefore, reject the prayer of Mr. Shah.

18. Mr. Shah further prays that *ad interim* relief granted by this Court be continued for six weeks to enable the appellants to approach the Supreme Court. In view of the prayer made by Mr. Shah, we continue the *ad interim* relief granted by this Court for a period of six weeks from today subject to the directions which are already given by this Court in Civil Application No. 501 of 1986.

(ATP)

Appeal dismissed.

*

SPECIAL CRIMINAL APPLICATION

Before the Hon'ble Mr. Justice S. B Majmudar and
the Hon'ble Mr. Justice R. J. Shah.

KISHOR AMRATLAL PATEL S/O. DETENU AMRATLAL MOHANLAL PATEL v. RAJIV TAKRU & ORS.*

PREVENTIVE DETENTION – Constitution of India, 1950 – Art. 22 – Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (VII of 1980) – Sec. 3 – This section empowers the competent authority to detain a person for securing that supply of essential commodities is not adversely affected – The object is quantity and not quality – So manufacturing, storing, selling etc. of adulterated articles is outside the purview of the Act – Where amongst several grounds, one ground for detention is selling etc. of an adulterated article – Since that ground is foreign to the Act, detention on that ground is bad – The Act does not have a provision analogous to sec. 5A of the COFEPOSA Act, and therefore in such a situation the whole order fails, and the order cannot be supported on other valid grounds.

*Decided on 8-10-1986. Special Criminal Application No. 849 of 1986 for a writ quashing the order of detention passed by the respondent against the father of the petitioner.

(Only a part of the Judgment approved for reporting is published.)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Submitted: CAT/JUDICIAL SECTION

Original petition No. OA/124/95

of

Miscellaneous petition No.

of

Shri Mansing Bhana Barad Petitioner(s)

Versus

Union of India & Ors Respondent (s)

This application has been submitted to the Tribunal by Shri J. J. Dave

Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985, and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/ draft letter is placed below for signature. (1) Application & documents are not duly signed and paginated

Asstt.

S.O. (J)

D.R. (J) 21-2-95

21/2/95

Objections are complied with today we may give regular number and then be given for fixation of Date.

SO (J)
06-3-95

6/3/95

DR(J)

*K/28/10/94

CA stamp 17/95

(1)

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD.

CONTEMPT APPLICATION 24 OF I995.

(IN ORIGINAL APPLICATION 493 of I989)

MAVSING BHANA BARAD,
EX DRIVER LOCO SHED
JETALSAR. BHAVNAGAR DN — CONTEMPTER.

VERSES. SHRI RAVINDRA.
THE UNION OF INDIA, THE GM.
WESTERN RAILWAY CHURCH GATE
BOMBAY-I — OPONENTS.
SHRI M.M. CHOPRA
2. THE DIVISIONAL RAILWAY — "
MANAGER BHAVNAGAR PARA

SUBJECT: CONTEMPT APPLICATION.

(I) DISHONOUR OF ORDRES ISSUED BY THE HONOURABLE CENTRAL ADMINI STRATIVE TRIBUNAL AHMEDABAD IN THE ORIGINAL APPLICATION 493-89.

The applicant while working as driver in the loco shed at jetalsar junction was dismissed by the Divisional Mechanical Engineer of Bhavanagar Division. The appeal was prefred to the DRM Bhavana gar who rejected the same. In the review petition the Chief Operating Superintendent converted the penalty of the dismissal in to that of COMPULSORY RETIREMENT. These ordres were challenged before the Honourable Tribunal who passed the judgement on 31-I0-94 and set aside the ordeers of dismissal. Though the copy of the same was handeded over to the Railway Authorities on the next day the same has not been honoured so far and as such the Conte mpt Application is filed before this Honourable Tribunal. The Copy of the judgement is enclosed along with the application. which is filed with the matter as annexture -- I (A/1)

2. The applicant submits that the authorities are fully knowing well that the applicant is reaching on the age of superanuation on 28-2-95 which was also reminded again and again to them but in the name of refrence the orders passed by the Honourable Tribunal have not been Honoured so far.

J.J. Dud 2.

15/2/95

3. The applicant submits that the Honourable Tribunal have quashed and set aside the impugned ordres passed by the REVIEWING AUTHORITY in which the applicant was compulsorily retired. The right course of the appreciation would have been implemented but it is deeply regretted that the same have not been implemented so far even on the face of repeated monitoring. Since the Railways are having the Mighty PUBLIC ORGANISATION OF THE PUBLIC SECTOR in fact they would have come forward to establish the society of rule of law since even to day the authorities have not gone in appeal or the HONOURABLE AUTHORITIES OF THE COURT have not granted any of the injunction so far.

4. The applicant submits more so when the applicant is retiring after FEW days on attianing the age of superanuation on 28-2-95 The applicant submits that from all this it is evident that the railways wants to waste time in issuing his due promotions as PASSENGER DRIVER & than AS MAIL EXPRESS DRIVER where his erst while juniors have been promoted as A Special Driver in the grade of I600-2900 and wants to drag him for the costly litigation from years to years by keeping him busy till he survives and wants to keep him suffering from suffering recuring loss by way of pension and retirement benifits till he survives.

5. The applicant submits and wants to register the strong protest before the Honourable Tribunal that since the appeal have not been prefred and interium ordees have not been issued and laid down time limit is over on 30-II-94 there exist no alternative but the Railways wants to torture, taxed and harrashed only because he has challenged the leagality and validity of the impugned orderes.

6. The applicant submits that right from the initiation the management of the Railway works on the tune of the vigilance organisation and it is evident that even after the judgement of the Honourable Court the refrence seems to have been made to the Genral Manager of the Railway to opine and instruct. Applicant therefore submits to direct the respondents to implement the ordres of the Honourable Tribunal effect from I-II-94 on the day on which the copy of the orders were recieved.

(MAVSINGH BHANA)

J.J. DAVE.

ADVOCATE OF THE APPLICANT.

I5-2-95.

(3)

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

IN THE ORIGINAL APPLICATION
493-89.DECIDED ON 31-I0-94.

H. V. DAVE B.A. LL.B. PGAE ADVOCATE & NOTARY JUNAGADH

Sl No. 29
Page No. 5
Book No. 2
Receipt No. 29

15 FEB 1995

AFFIDEVIT.

I, Mavsingh Bhana Barad, Adult, Hindu record on oath that while working as driver at Jetalsar Junction I was dismissed by the Railways in the Departmental Desciplinary action after conducting the Inquiry.

2. I prefred the appleat to the appeletee authority who regreted the same. I further presented the review application to the REVIEWING AUTHORITY who modified the penalty of dismissal in to that ofthe Compulsory retirement against which, being aggrieved, I filed the above matter before the Honourable Centarl Administartive Tribunal who have passed the judgement on ~~XX-XXX~~ 31-I0-94 where the Honourable judges have set aside the dismissal orders and the compulsory retire ment orderes issued by the Reviewing authority.

2. Though the judgement and decree have already been passed on 31-I0-94 and the certified copies have also been supplied by me personally I have not been reinstated so far though more than 3 months time is over. It is known to me from the reliable sources that the Railway have once again sent all these papers to the Vigilance Organisation for their opine.

3. The applicant submits that in the matter neither injunction has been granted orappeal has been prefered. By delaying the Railways wants to harm and harrash and wants to victimise me for further round of litigation without any material evidence and any justified reason. More so when my erstwhile Juniors have already been promoted in the Mail Express Guard in the scale of I600-2900 and as such later complications will be invited for selection etec and will seriously harm me by effecting the pensionery benifits too. Under these circum stances I record on oath that even to day the judgement of 31-I0-94 has not been implemented so far and for filing the COTEMPT PROCESS this affidevit is filed. The facts and averments raised in these are quite true to the best of my knowledge and belief. In toke of this I put my siganture on I5 TH February I995.

(MAVSING BHANA)
SIGNATURE OF THE APPLICANT.

READ & EXPLAINED IN GUJARATI.

(J.J. DAVE)
ADVOCATE OF THE APPLICANT.

H. V. DAVE
B.A., LL.B.
ADVOCATE & NOTARY
PGAE
6 | 2
JUNAGADH

Solemnly affirmed before me
by Mr Chavsingh B. Barad
identified by Mr. J. J. Dave Advocate
whom I personally known.

15-2-95

(H. V. DAVE)
Advocate & Notary
Junagadh District

15 FEB 1995

SEAL OF NOTARY
JUNAGADH DISTRICT
NOTARIAL
RUPEES FIVE