

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

9

O.A. No. 210/90
T.A. No.

DATE OF DECISION 20-12-1994

Shri M.B. Yadav

Petitioner

Shri G.A. Pandit

Advocate for the Petitioner(s)

Versus

Union of India and Others

Respondent

Shri R.M.Vin

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.

V. Radhakrishnan

Member (A)

The Hon'ble Mr.

Dr. R.K. Saxena

Member (J)

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 ?

No



Shri M.B. Yadav
Gulabdas Chawal
Ghand Bazar
Varacha Road,
Surat.

Applicant

Advocate Mr. G.A. Pandit.

Versus

1. The Union of India, notice to be served through The General Manager, Western Railway, Churchgate Bombay.
2. Divisional Railway Manager, Western Railway, Bombay Central Bombay.
3. Station Superintendent Western Railway, Surat.

Respondents

Advocate Mr. R.M. Vin

O R A L J U D G M E N T

In

Date: 20-12-1994.

O.A. 210/ 1990

Per Hon'ble Dr. R.K. Saxena

Member (J)

Shri Moti B. Yadav approached the Tribunal seeking the quashment of the order of removal from service passed by the Disciplinary Authority and upheld by the Appellate Authority.

2. The brief facts of the case are that the applicant was a casual labourer at the time of his initial appointment but he was given temporary status thereafter and subsequent thereto he was screened and permanently absorbed in the traffic department of the Railways. It was, however, discovered later on that the applicant had misconducted ^{against} the administration by producing a bogus casual labour card for getting employment.

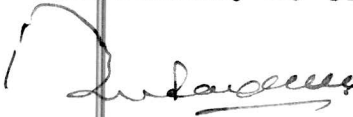
(9)


The charge sheet was served on the applicant and after the completion of the inquiry, the Disciplinary Authority recorded the finding of termination of service of the applicant. It may be pointed out at this stage that similarly situated two more persons namely ~~Serv~~ Shri Ramsurat S. Yadav and Ramdular B. Yadav also faced similar charges and their services were also terminated. Instead of going in appeal all the three persons came to Tribunal and filed Original Applications No. 328, 329 & 330 of 1989 which were decided on 14-8-1989, with the direction that they should avail the remedy of appeal before approaching the Tribunal. Consequently all of them preferred appeal before the Appellate Authority. The contention of Shri G.A. Pandit, learned counsel for the applicant is that the appeal of this applicant came for hearing before the Divisional Safety Officer Bombay Central, and was decided on 27-12-1989 whereby it was rejected. On the other hand the appeal of Shri Ramsurat B. Yadav who had filed Revision was decided on 15-2-1993 reducing the penalty to minimum of the scale in the same scale of pay ~~on pay~~ of Rs. 750/- per month in the grade of Rs. 750/- 940/- for period of two years with future effect. The contention of the learned counsel for the applicant, therefore, is that similarly situated persons ^{should &} have ~~not~~ been given equal treatment in the matter of awarding punishment.

3. The respondents have contested the case and justified the order of punishment awarded to the applicant.

4. The question for consideration, however, is if the applicant can be denied the same punishment for the same kind of mis-conduct which was allowed in the case of Shri Ramsurat S. Yadav. The applicant has brought copy of the order in the revision filed by R.S. Yadav on record, and it speaks that Shri R.S. Yadav had preferred revision which is a remedy after exhausting the remedy of appeal. It also indicated that the applicant did not avail the remedy of revision and directly came to Tribunal. As a matter of fact when this remedy was available to the applicant he ought to have gone in revision. The period spent by the applicant before the Tribunal in prosecuting the O.A. may be ignored by the Revisional Authority while taking the revision now for consideration. We are also of the view that the Revisional authority should, in the event revision is preferred, take the view about punishment as was done in the case of R.S. Yadav.

5. The applicant shall prefer revision within two weeks from the date of the receipt of a copy of this order and Revisional authority shall dispose of the same within four weeks thereafter. The application is disposed of with these directions. No order as to costs.


(Dr. R.K. Saxena)
Member (J)


(V. Radhakrishnan)
Member (A)

*AS.