Depti- Enquiry (no)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. No. 216/91 ~~T.A.No.~~ ~~xxx~~

DATE OF DECISION 1.7.1991

Shri Pasabhai Natwarbhai Petitioner

Mr. M.M. Shastri Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

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

CORAM :

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

The Hon'ble Mr. R.C. Bhatt : Judicial 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

Pasabhai Natwarbhai,
Office of the
District Signal & Tele- communication
Engineer (Construction),
Western Railway, Ahmedabad. ... Applicant.

(Advocate: Mr. M.M. Shastri)

VERSUS

1. The Union of India,
Through:
The General Manager,
Western Railway,
Churchgate, Bombay.

2. The District Signal & Tele-
communication Engineer (Const.)
Western Railway, Ahmedabad) ... Respondents.

(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A./216/91 Date: 1.7.1991

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

1. Heard Mr. M.M. Shastri, learned counsel for the applicant. Mr. N.S. Shevde, learned counsel for the respondents present.

2. This Original Application under Section 19 of the Administrative Tribunals Act, 1985, is, in accordance with para 3 of it, filed against the order dated 1st April, 1991 bearing No. SC/E/DAR/308/2 issued by the Assistant Signal & Tele-communication Engineer (Construction), Ahmedabad informing the applicant that the DAR enquiry against him has been finalised by the Inquiry Officer and inviting the applicant for personal hearing or for giving solid defence threatening to finalise the case in case of default upon the papers available. The contents of this order dated 1st April, 1991 are, as follows:

> "The DAR enquiry in your case mentioned above has been finalised by the Enquiry Officer.
>
> Kindly attend this office to give a personal hearing or give your solid defence, if any, by 10th April, 1991 latest, after which the case will be finalised depending upon the papers available."

...3....

3. It is sufficiently clear from the contents above that the purpose of this letter is only to inform the applicant to attend office for personal hearing or give his defence by 10th April, 1991. This letter is intended to give an opportunity to the applicant to give his defence in the departmental inquiry. When the contents of the letter are such, the letter can hardly be impugned and challenged. Also, it cannot be challenged as it does not amount to any final order of the authority concerned.

4. Looking to the relief clause at para 7 (a), the same consists of challenging the action of the authorities concerned in issuing the chargesheet and concluding the inquiry without giving opportunity to defend and indirectly imposing the panalty of remova from service as illegal, malafide, arbitrary and violative of principles of natural justice. It is apparent from the relief clause that a final order in the departmental inquiry against the applicant appears to have been passed by the competent authority. When a final order of departmental inquiry has been issued, the applicant will first require to exhaust his remedy of filing appeal to prescribed departmental appellate authority.

5. From the above, it will be seen that the application does not deserve any consideration in this Tribunal at this stage. The same is rejected.

(R.C. Bhatt)
Judicial Member

(M.M. Singh)
Administrative Member

*Kaushik