

E.B. (N^o) 3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 218 of 1991

~~T.A. No.~~

DATE OF DECISION 9.1.1992

Shri Janardhan Dave Petitioner

Petitioner in Person

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri Mukesh Patel Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt

: Member (J)

The Hon'ble Mr.

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

Shri Janardhan Dave

: Applicant

Vs.

Union of India & Ors.

: Respondents

O.A. No.218 of 1991

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

Date : 9th January, 1992

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

Petitioner in person present. Shri ^{Mukesh} ~~Jayant~~ Patel for
Shri ^{Jayant} ~~Mukesh~~ Patel, learned advocate for the respondents
present. This original application under Section 19 of the
Administrative Tribunals Act, 1985, is preferred by the
applicant who was Assistant Superintendent of Post Office,
G.P.O., Ahmedabad, at the time of making this application
and who has retired since then on 23.11.1991. It is the
case of the applicant that the impugned order, annexure A-1,
passed by the Superintendent of Post Offices, Sabarkantha
Division, Himatnagar, on 22.7.1988 stating that the D.P.C.
has on 22.7.1988 considered the question of Efficiency Bar
of the applicant and concluded that the applicant was not
recommended to cross efficiency bar, which impugned order
according to the applicant should be quashed and he should
be allowed to cross efficiency bar with effect from 1.7.1988

because the action taken by the respondent no. 3 is malafide, arbitrary and colourable exercise of power. The main allegation of the applicant as found in para 6.6. is that, one Mr. B.S. Patel, Supreintendent of Post Offices, Sabarkantha Division, Himatnagar, at the relevant point of time, had the impression that the applicant was responsible regarding the matters against him taken by the National Union in transfers and other personal matters. This, according to the applicant, the impugned order, annexure A-1, is the result of prejudice of Shri B.S. Patel against the applicant- The applicant has produced number of documents along with his application and has also given written submissions and has waived personal hearing. He has stated in his submissions that the appeal which has been filed by him on 12.1.1990, produced at Annexure A-11/1, to Member (P), New Delhi is yet not decided. He has also mentioned in his submissions that the next D.P.C. ought to have met on 1.4.1988 but it was delayed upto 22.7.1988. According to him, there was nothing adverse on that day against him. He has denied that there was series of censure etc. against him. The applicant has produced with reply the orders of some censures and withdrawl of increment against the applicant in the year 1985-'86. The applicant has stated that though he was punished on 21.10.1988 and

though review was due, the SPOs Himatnagar did not ~~case~~ ^{consider that}

^{fact} and imposed the punishment on the applicant which was nothing but a bias attitude, He has stated that he was not undergoing any punishment on 1.4.1988 and he has prayed that he should be allowed to cross efficiency bar effective from 1.7.1988 at the stage 2600-2675.

2. The respondent no. 1, 2 and 3 have not filed any reply, but one Mr. B.J. Pathak who is at present holding the post of Superintendent of Post Offices, Sabarkantha Division, Himatnagar, as respondent no.4 has filed reply contending that the D.P.C. after examining the record of the applicant had decided not to allow the applicant to cross the efficiency bar and that there is no prejudice shown by Mr. B.S. Patel against the applicant as alleged in the application. It is contended in the reply that there were adverse remarks in the confidential report of the applicant.

3. It is not in dispute that the D.P.C. which met on 23.7.1988 has reviewed the case of the applicant and has again effected to cross the efficiency bar from 1.7.1989 and hence now the dispute is limited to the extent of the applicant not being allowed to cross the efficiency bar from 1.7.1988.

4. In the instant case it is unfortunate that though

the applicant had preferred petition to Member (P), Department of Post, Ministry of Communication, New Delhi, on 12.1.1990 his petition is not decided till today. The respondents have not produced the file of the applicant of the relevant period. In this matter, the respondents stated that the Confidential Report File is sent to Member (P), Postal Service Board, before whom the petition is pending. Be what it may, the applicant has retired and his case is unnecessarily delayed as his petition filed before Member (P), Postal Service Board, New Delhi is not decided for two years. It is therefore very necessary to direct respondent no. 1 The Director General, Department of Post, Ministry of Communication, New Delhi, to see that the petition of the applicant dated 12.1.1990 regarding his efficiency bar case, now pending before Member (P), Postal Service Board, New Delhi is decided within three months from the receipt of this judgement. The respondent no. 4 ~~though~~ in para 10 has contended that the Confidential Report File of the applicant sent to Member (P), Postal Service Board, New Delhi, in the said pending petition. The respondent no. 4 to send all the material required and to co-operate in the final disposal of the petition of the applicant by making communication with Member (P) Postal Service Board, New Delhi. This Tribunal sincerely hopes that the authority concerned will certainly dispose of the matter of the applicant within the above period of

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three months.

5. This application is disposed of with direction to respondent no. 1 to see that the petition of the applicant dated 12.1.1990 with regard to his efficiency bar case pending before Member (P), Postal Service Board, New Delhi, is disposed of within three months from the receipt of the judgement. The application is disposed of with no order as to costs.

R.C. Bhatt

(R.C. Bhatt)
Member (J)

*Ani.