

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~NEW DELHI~~

O.A. No. 266 of 19 91.  
~~T.A. No.~~

DATE OF DECISION 26.7.1991

Niranjan Lal Sharma Petitioner

Mr. B.I. Mehta 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 .. Member (A)

The Hon'ble Mr. S. Santhana Krishnan .. Member (J)

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*

Niranjanlal Sharma,  
Quarter No.280, Unit-A,  
Freelandgunj Char Rasta,  
Dahod - 389 160.  
(Advocate-Mr.B.I. Mehta)

.. Applicant

Versus

1. Union of India,  
Through :  
The Secretary,  
Ministry of Railway,  
Rail Bhavan,  
New Delhi.

2. Chief Material Manager(1),  
Western Railway,  
C/o. Controller of Stores,  
Churchgate,  
Bombay.

3. District Controller of Stores,  
Western Railway,  
Dahod.

(Advocate-Mr. N.S. Shevde)

.. Respondents

O.A. No. 266 of 1991

ORAL - ORDER

Dated : 26.7.1991.

Per : Hon'ble Mr. M.M. Singh : Member (A)

Heard Mr. B.I. Mehta, learned counsel for the applicant and Mr. N.S. Shevde, who enters appearance for the respondents.

2. This original application had<sup>5</sup> been filed by the applicant under section 19 of the Administrative Tribunals Act, 1985 seeking order to quash and set aside an order of punishment dated 11.9.1990 restraining the respondents from recovering amount of Rs. 42,819.45 from the salary of the applicant in instalments and to refund the amount which respondents have already recovered from the applicant by way of deduction from his salary.

3. We have noticed that the order of the disciplinary

authority imposing punishment says with regard to the recovery of the amount of Rs. 42,819.45<sup>Mar 84</sup> shall be recovered in instalments from the applicant's salary. The number of instalments in which the amount is to be recovered has not been laid down by the disciplinary authority. We are of the view that the amount of each of the instalment<sup>H</sup> has bearing on the quantum of punishment for the reason that if the instalment is higher it <sup>aggravates</sup> ~~aggravates~~ the agony of the applicant and if it is lower, it may not be so. The disciplinary authority keeping in view the salary and other emoluments received by the applicant, was required to fix the amount of each of the instalment to be recovered. In so far as the authority did not do so, we are of the view that the order is incomplete. The amount of each of the instalment and number of instalments have to be fixed by the authority.

4. Beside<sup>H</sup> the appeal dt. 18.10.1990 filed by the applicant is stated to be still pending. As more than six months passed and appeal was not decided, the applicant came to this Tribunal.


5. For the reasons stated above, the<sup>final</sup> order being incomplete, we decide to remit the matter to the disciplinary authority to fix the amount of each instalment<sup>H</sup> and number of instalments to be recovered from the applicant. Pending this order to be passed by the disciplinary authority on our direction, no further instalments shall be recovered from the applicant. The instalments already recovered, shall be retained by the respondent authority towards the part implementation of the order which for reasons stated is defective, <sup>H</sup> but we do not consider it necessary

to order to refund the amount already recovered.

6. When the order as stated above is passed, the applicant shall have liberty to file a fresh <sup>appeal</sup> application under the rules.

7. We finally dispose of the application by our above order. The applicant shall have liberty to approach this Tribunal again ~~as and when final order issued~~ <sup>by</sup> as per law.

  
(S Santhana Krishnan )  
Member(J)

  
( M M Singh )  
Member(A)

\*Mogera