

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. /322/92 with M.A.181/94
T.A.NO.

DATE OF DECISION 1.5.1998

Venkat Rao Musini Petitioner

Mr.K.S.Jhaveri 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. V.Ramakrishnan Vice Chairman

The Hon'ble Mr. P.C.Kannan Member (J)

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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Venkat Rao Musini

Add: Quarter No.T, 250-C,
Nr. Station Superintendent
Office, Kankaria,
Ahmedabad.

....Applicant

Advocate Mr. K. S. Jhaveri

versus

1) Union of India, : Through :
The General Manager,
W.Rly., Churchgate,
Bombay.

2) Senior Divisional Commercial Superintendent,
W.Rly., Vadodara, Division,
Pratapnagar,
Vadodara.

3) The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Vadodara.

4) Shri S.S.Gupta,
Divisional Commercial Inspector,
W.Rly., Vadodara Division,
Pratapnagar,
Vadodara.

.... Respondents

Advocate Mr. N. S. Shevde

ORAL ORDER

O.A. 322/92 with
M.A. 181/94

Date: 01.5.1998

Per Hon'ble Mr. V. Ramakrishnan

: Vice Chairman

We have heard Mr.Jhaveri for the applicant and Mr.Shevde, the Standing Counsel for the Railway Administration.

2. The applicant, who was a railway servant, has prayed for a direction to quash the order of the Railway Administration to hold a fresh enquiry against him on the ground that this is against the orders of the Tribunal. There is also a prayer that he should be given all back-wages and other consequential benefits.

3. This is the second round of litigation. The applicant was initially proceeded against for alleged gross misconduct on the ground that he had caused pecuniary loss to the Railways. This enquiry was concluded and an order was issued on 1.11.86 by the Disciplinary Authority removing him from service. An appeal filed against this order was also dismissed. The applicant had challenged these two orders in earlier proceedings in O.A.141/87, which was disposed of on 25.4.90, copy enclosed at Annexure A-1. The Tribunal had then quashed the order of the Disciplinary Authority. We may reproduce para-16 of the order, which reads as follows:-

" Under these circumstances, we quash the impugned orders Annexure B and G in O.A.141/87 and direct the reinstatement of the applicant fourthwith but without any back-wages. The question of payment of back-wages and grant of all other consequential benefits would depend upon the decision of the respondents to conduct

a fresh enquiry against the applicant and the result thereof. If the respondents do not wish to conduct a fresh enquiry within a period of six months, they may pass orders for payment of back-wages and all consequential benefits. If on the other hand, they decide to conduct a fresh enquiry within the period mentioned above in accordance with the law the question of payment of back-wages and all consequential benefits would depend upon the final outcome of such further enquiry and consequential decision that may be taken by the concerned authority."

3. The applicant contends that the fresh enquiry was not instituted within the time-limit specified by the Tribunal and the same should be quashed. This O.A. was filed in 1992. It is now seen that owing to the passage of time, the enquiry had now been concluded and Enquiry Officer had given his report. The applicant retired from Service in ~~19~~ March 1992.

4. From the reply statement filed in July 1994, we find that at that time, the enquiry has been completed and the enquiry report had been given to the applicant and after taking into account the applicant's reply, further action was being taken. Mr. Shevde states that after his retirement, the proceedings against the applicant are taken to be deemed proceedings and after completion of the enquiry and after the requisite procedure, the matter has been submitted to the President for final orders. He submitted on instructions

that some queries had been raised and the competent authority would furnish his reply soon. He expected that proceedings to be completed without further delay.

5. In the light of this subsequent development, Mr.Jhaveri for the applicant submits that the applicant has been put to hardship as the enquiry has been continued for a long time even after his retirement as the proceedings which had been started in 1990 are still not complete. In view of this delay, the applicant has/been given gratuity and other retiral benefits except for provisional pension and leave encashment for 210 days; of course the balance in his P.F. which is his own money was paid. The counsel for the applicant further states that apart from balance of gratuity which has been withheld the competent authority has to issue orders regularising the period of removal from the date of initial removal on 1.12.86 upto 13.6.90. He now prays for a direction to the respondents to complete the proceedings without further delay and to take further steps.

6. We find that the proceedings against the applicant were started much earlier. As brought out earlier, the Tribunal by its order dated 25.4.90, had asked the respondents to take a decision about the need to conduct a fresh enquiry. Mr.Jhaveri says that such fresh enquiry was not initiated within the period of

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period of 6 months but only an Enquiry Officer was appointed within that time. Mr. Shevde says that the Tribunal's direction was that the decision ^{was} to be taken whether a fresh enquiry should be — held or not and such a decision was taken within time. However, the fact remains that even after the appointment of Enquiry Officer, the proceedings had not ^{been} completed for a long time and the applicant has approached the Tribunal by filing this O.A. and meanwhile he has also retired from service. Even now, when more than 6 years have passed since his retirement, the final ~~decision~~ on the proceedings ^{one} still to be taken and the President's order is awaited. Obviously, the time taken by the respondents is unduly long. We find force in the submission of Mr. Jhaveri that this delay has adversely affected the interest of the applicant.

7. Keeping in view of the facts and circumstances of this case, and the submission of the counsel, we direct the respondents that the proceedings should be completed and the final order should be issued and communicated within 2 months from the date of receipt of a copy of this order. We further direct that depending on the decision taken by the President, whatever entitlements become due to the applicant as per the Rules should be paid to him as early as possible and in any case not later than 3 months from the date of issuance of the final orders.

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8. In view of the delay in completing the proceedings, we award cost of Rs. 1000/- to the applicant which should be

paid by the Railway Administration within 2 months.

9. With the above directions, the O.A. stands disposed of finally. No order as to costs.

10. In ~~the~~ view of the final disposal of the O.A. M.A*181/94 does not survive and it also stands disposed of.

P.C.Kannan

(P.C.Kannan)
Member (J)

V.Ramakrishnan

(V.Ramakrishnan)
Vice Chairman

*SN..

ORDER

<p>04.12.98 M.A. 800/98</p> <p>Office objections waived. Registry to give regular number.</p> <p>In M.A. <u>800/98</u> the Railwayx Administration seeks time to comply with our directions up to 03.12.98. This is already over. M.A disposed of as infrac-tuous.</p> <p><u>DR</u></p> <p>(P.C. Kannan) Member (J)</p> <p>mb</p>	<p>We have gone through M.A. st/763/98.</p> <p><u>DR</u></p> <p>(V. Ramakrishnan) Vice Chairman</p>
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DATE

OFFICE REPORT.

O R D E R

17.9.98	Mr. Shevde says that he has served a copy on the other side. Registry to check up regarding other objections.
27.10.98	Adjourned to 27.10.1998. <i>LSW</i> (Laxman Jha) Member (J) vtc. Mr. Shevde has not removed pending objections. To give one more chance, adjourned to 13.11.1998. <i>VR</i> (V. Ramakrishnan) Vice Chairman
13.11.98	As per intit of C.O.I., a Hon'ble Bench has waived obj. Hon'ble regular number is given. 13.11.98 Objections waived. Registry to give a regular number MA/726/98 seeks extension of time upto 04.10.98 which is already over. MA disposed of as infructuous. <i>VR</i> (V. Ramakrishnan) Vice Chairman
26.11.98	hki Office objections in respect of MA/st.763/98 should be removed forth with. Adjourned to 04.12.98. <i>VR</i> (V. Ramakrishnan) Vice Chairman
	hki

DATE OFFICE REPORT.

O R D E R

04.12.98

We have gone through M.A.st/763/98.

Office objections waived. Registry to give regular number.

In M.A 800/98

the Railways

Administration seeks time to comply with our directions up to 03.12.98, this is already over. M.A disposed of as infrac-tuous.

(P.C. Kannan)
Member (J)(V. Ramakrishnan)
Vice Chairman

mb

DATE OFFICE REPORT.

C R D E R

17.9.98

Mr. Shevde says that he has served a copy on the other side. Registry to check up regarding other objections.

Adjourned to 27.10.1998.

(Laxman Jha)
Member (J)

(V.Ramakrishnan)
Vice Chairman

vtc.

27.10.98

Mr. Shevde has not removed pending objections. To give one more chance, adjourned to 13.11.1998.

OFFICE REPORT.

C R D B R

(V.Ramakrishnan)
Vice Chairman

vtc.

13.11.98

Objections waived. Registry to give a regular number

MA/726/98 seeks extension of time upto 04.10.98 which is already over. MA disposed of as infructuous.

(V. Ramakrishnan)
Vice Chairman

26.11.98

hki Office objections in respect of MA/st.763/98 should be removed forthwith. Adjourned to 04.12.98.

(V. Ramakrishnan)
Vice Chairman

hki