

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 342/92
T.A. No.

DATE OF DECISION 25-10-1993.

Shri Hifa Ram Rathod Petitioner

Shri K.M. Sheth Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel Vice Chairman.

The Hon'ble Mr. V. Radhakrishnan Member (A)

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 ?

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Shri Hifa Ram Rathod,
C N W/26/B, Mithapur Rly. Qrs.,
Mithapur,
Jammagar Distt.

..... Applicant

Shri K.M. Sheth

..... Advocate

Versus

1. Union of India through
The Secretary,
Ministry of Railways,
New Delhi.

2. Assistant Mechanical Engineer,
Divisional Office,
Western Railway,
Rajkot.

3. Carriage Wagon Supervisor (CWS),
Mithapur, Western Railway,
Mithapur.

4. Divisional Mechanical Engineer (DME),
Divisional Office,
Western Railway,
Rajkot.

..... Respondents

Shri B.R. Kyada

..... Advocate.

ORAL JUDGMENT

IN

O.A. 342 of 1992

Date:- 25-10-1993

Per Hon'ble

Shri N.B. Patel

Vice-Chairman

The applicant herein challenges the legality of the orders Annexure-A, Annexure-B and Annexure-C. The applicant was holding the post of Senior Khalasi in 1989 and he came to be charge-sheeted on the allegation that he had abused his colleague or superior officer. By his order (Annexure-A) dated 21-1-92, the respondent No. 2 Disciplinary Authority, found the applicant guilty

of the charge, accepted the report of the Inquiry Authority and awarded punishment of removal of the applicant from service. The applicant's appeal against this order was rejected by the Respondent no.4 by his order, Annexure B dated 20-4-1992.

2. The applicant then invoked the power of the respondent no.5 D.R.M. (E) Rajkot under Rule 25 of the Railway Servant Discipline and Appeal Rules 1968 and prayed for setting aside of the punishment order. It appears that the main contention of the applicant was that he was not served with a copy of the charge-sheet and was not given an opportunity of defending himself. The respondent no. 5 has still not decided the Revision Application of the applicant but has informed the applicant by his letter (Annexure C) dated 20-7-1992 that the said authority desires that the applicant should first vacate the Railway Quarter alleged to have been unauthorisedly occupied by the applicant and thereafter he will consider the applicant's Revision Application for passing further orders in the matter. Thus, the Revision Authority has so far neither allowed the Revision Application filed by the applicant nor dismissed it. He insists on taking up Revision Application for consideration only after the applicant vacates the Railway Quarter stated to have been unauthorisedly occupied by him.

3. The question is whether the action of the

respondent no.5 in insisting upon the applicant first vacating the quarters and then alone taking up the Revision Application for consideration is legal or otherwise. The charge framed against the applicant has been read over before us by the learned Advocate for the respondents Shri Kyada and it is true, that, while narrating the allegations in the charge, a reference is made to the recovery of charges from the applicant on the ground of his being in unauthorised occupation of the Railway Quarters, it is abundantly clear that the charge was only in respect of the use of abusive language towards his colleague and superior. The fact about the unauthorised occupation of the quarter by the applicant and recovery of charges from him on that ground is mentioned only as a background fact and by way of narration of the facts antecedent to the incident. In that sense, the alleged unauthorised occupation of the quarter by the applicant has no connection whatsoever with the charge which he was facing. It is, therefore, obvious that the action of the respondent no.5, in declining to exercise his powers under Rule 25 of the Railway Servant Discipline and Appeal Rules, till the applicant vacates the quarter, is illegal and cannot be sustained. The result, therefore, would be that the application will have to be partly allowed and suitable directions will have to be given to the respondents, especially to the respondent no.5.

4. The application is partly allowed. The order

dated 20-7-1992 (Annexure C) passed by the Respondent no.5 is hereby quashed and set aside. The respondent no.5 is directed to consider and decide the Revision Application, filed by the applicant, dated 20-4-1992, within a period of eight weeks from the date of the receipt of a copy of this order without insisting on the applicant's first vacating the Railway Quarters alleged to have been unauthorisedly occupied by him. It is made clear that the respondent no.5 may exercise his powers of revision, including the power to remand the case to the Appellate Authority or the Disciplinary Authority, if he finds it necessary to do so. The respondents are further directed not to evict the applicant from the Railway Quarters otherwise than in accordance with law. If, ultimately, punishment of removal is awarded to the applicant, ~~the order if removal is awarded to the applicant~~, the order of removal may not be implemented for a period of 10 days after its service on the applicant. No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman.

*AS.