

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL^B
AHMEDABAD BENCH

To be
Posted as
Ch. J.

O.A. No. 356/92
~~XXXXXX~~

DATE OF DECISION 16.2.1993

Subhanali S/o Ajim Mohamad Petitioner

Mr. G. M. Shah Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt Member (J)

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 ?

Subhanali S/o Ajim Mohamad,

... Applicant.

Vs.

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

... Respondents.

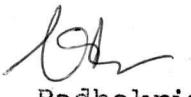
ORAL JUDGMENT

O.A./356/1992.

Date: 16.2.1993

Per: Hon'ble Mr. R.C. Bhatt, Member (J)

1. None for the applicant ^{present} ~~Previous~~ dates 9th
September, 1992, 23rd September, 1992, 7th October, 1992,
3rd December, 1992, 17th December, 1992, 22nd Jan. 1993,
and 3rd Feb. 1993, none was present. Today, also none
is present for the applicant. No application for adjournment
is given. Hence, the matter is dismissed for default.


(V. Radhakrishnan)
Member (A)


(R.C. Bhatt)
Member (J)

*K

Subhanali S/o Ajim Mohamad,

... Applicant.

Vs.

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

... Respondents.

ORAL JUDGMENT

O.A./356/1992.

Date: 16.2.1993

Per: Hon'ble Mr. R.C. Bhatt, Member (J)

1. None for the applicant. Previous dates 9th September, 1992, 23rd September, 1992, 7th October, 1992, 3rd December, 1992, 17th December, 1992, 22nd Jan. 1993, and 3rd Feb. 1993, none was present. Today, also none is present for the applicant. No application for adjournment is given. Hence, the matter is dismissed for default.

(V. Radhakrishnan)
Member (A)

(R.C. Bhatt)
Member (J)

*K

26.4.93

DATE

OFFICE REPORT

ORDERS

The file of this matter is not put before

us on the grounds that it is not available.

Register to trace out the file. Call on

10th May, 1993.

Member (A)

(Mr. Kohatkar)

Member (J)

(R.C.Bhatt)

Mr. Kohatkar

VTC.

DATE	OFFICE REPORT	ORDERS
10.5.93		<p>None present for the applicant. It is reported by the office that the files <u>are</u> <u>not</u> <u>tracable</u>. Registry to trace it by the next date. Call on 14th June, 1993.</p> <p><u>M.R.Kolhatkar</u></p> <p>(M.R.Kolhatkar) Member (A)</p> <p><u>R.C.Bhatt</u></p> <p>(R.C.Bhatt) Member (J)</p> <p>vtc.</p>

M.A. 131/93 in O.A. 356/92

DATE	OFFICE REPORT	ORDERS.
14.6.93		<p>It is reported that the record is not available. Registry to trace it at the earliest and to put the matter on 5th July, 1993.</p> <p><i>nc</i></p> <p>(R.C.Bhatt) Member (J)</p> <p>vtc.</p>

O.A./356/92

16/8/93

Record is not available. Registry
should trace out the record.

Call on 14/9/93.

M.R.Kolhatkar

(M.R.KOLHATKAR)

Member (A)

R.C.Bhatt
(R.C.BHATT)

Member (J)

HPC/ss

DATE	OFFICE REPORT	ORDER
14/9/93	<p>Res. sub.</p> <p>After the Court's order, Court Officer D Shri Raval had gone to Record Room yesterday and with the help of Record keeper he has found out this OA 356/92.</p> <p>It is found that OA is dismissed for default on 16.2.93.</p> <p>MA for restoration is filed by applic's advocate in March 93.</p> <p>Now copy MA may be kept for orders on 21.9.93. Advocate Shri Shah stays at Mehsana.</p> <p>Today notice is issued to him.</p> <p>OBIAF/DR/JJ 15.9.93 DR/JJ Prater 21.9.93</p>	<p>In this case, record is not available since 26th April, 1993. The concerned S.O.(J) is directed to visit the record room personally and satisfy himself/herself that the record is really not available.</p> <p>Put up on 21/9/93.</p> <p><i>M.R.Kolhatkar</i> (M.R.KOLHATKAR) Member (A).</p>

O.A.356/92

21/9/93

M.A./131/93

Mr.S.J.Shah for Mr.G.M.Shah for the applicant.

The applicant has filed this M.A. for restoring O.A.356/92 which was dismissed for default on 16/2/93 by this Bench.

Reading the order in O.A., we find that the application was dismissed for default because, none remained present on behalf of the applicant on so many adjournments.

~~been~~ The applicant and his learned advocates ought to have ~~remained~~ present. However, having regard to the averments made in the application, explaining the ~~absent~~ reasons, we considered it just and proper to allow the application. However, we warn the applicant and his learned advocate that if they are outsider and if they seek adjournment, by post or otherwise, it is not obligatory on Registry to inform them by letter about the next date. It is their duty to enquire from the Registry about the next date. They should keep these instructions in mind in future in this matter and their absence on the ground that they are not informed by this Registry about the next date, will not be a sufficient ground for not remaining present before this Tribunal. We allow this application in the interest of justice and set aside the dismissal of O.A. and restored it. M.A is allowed and it is disposed of.

2. Today, Learned advocate Mr.Shah for the applicant submits that he seeks time to amend the O.A. and this O.A. is only for permission hence, the applicant is permitted to amend the O.A.

Date

Office Report

~~ORDER~~

Hence, the applicant is permitted to amend the O.A. suitably ~~within~~ on or before 5/10/93.

Call on 5/10/93 for admission.

Applicant has
amended the

Mr. K. Kolhatkar
(M.R. KOLHATKAR)

Member (A)

Res
(R.C. BHATT)

Member (J)

O.A.
G.N.M.
Date
04-10-93.

ssh

5/10/93

Heard learned advocate Mr. S.G. Shah for Mr. O.M. Shah. Issue notice on admission to the respondents. The respondents to file reply on admission. The question is about sympathetic consideration of the applicant for the post of Khalasi. Notice returnable by 11th November, 1993.

Notice issued
on 12.10.93
for
S.O. (I)
12.10.93

Mr. K. Kolhatkar
(M.R. Kolhatkar)
Member (A)

Res
(R.C. Bhatt)
Member (J)

AIT

11-11-93

HEARD LEARNED ADVOCATE FOR THE
APPLICANT AND RESPONDENTS
ORAL ORDER PRONOUNCED IN OPEN COURT.

Mr. K. Kolhatkar
(M.R. Kolhatkar)
Member (A)

Approved
CO II

Res
(R.C. Bhatt)
Member (J)



Hence, the applicant is permitted to amend the O.A. suitably ~~within~~ on or before 5/10/93.

Call on 5/10/93 for admission.

Applicant has
amended the O.A.

(M.R.KOLHATKAR)

Member (A)

(R.C.BHATT)

Member (J)

ssh

5/10/93

Heard learned advocate Mr.S.G.Shah

for Mr.O.M.Shah. Issue notice on admission to the respondents. The respondents to file reply on admission. The question is about sympathetic consideration of the applicant for the post of Khalasi. Notice returnable by 11th November, 1993.

(M.R.Kolhatkar)
Member (A)

(R.C.Bhatt)
Member (J)

AMT

HEARD LEARNED ADVOCATE FOR THE APPLICANT AND RESPONDENTS ORAL ORDER PRONOUNCED IN OPEN COURT,

11-11-93

ANAL
COT II

(M.R.Kolhatkar)
Member (A)

(R.C.Bhatt)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. /356/92
T.A. No.

DATE OF DECISION 11-11-1993

Subhanali Ajim Mohmand Petitioner

Mr. G. M. Shah Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

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

CORAM :

The Hon'ble Mr. R.C.Bhatt : Member (J)

The Hon'ble Mr. M.R.Kolhatkar : 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 ?

Subhanali S/o Ajim Mohamad,
Aged about 41, Adult,
Occupation: service in Railway,
residing at : Railway Colony,
Near Officer's rest house,
Palanpur (Dist.:-Banaskantha)

: Applicant :

Advocate : Mr.G.M.Shah

versus

1. The Union of India, through:
The General Manager,
Western Railway,
Churchgate,
Bombay
2. Inspector of Works,
Western Railway,
Palanpur

: Respondents :

Advocate : Mr.B.R.Kyada

ORAL JUDGEMENT

O.A.356/92

Date : 11-11-1993

Per : Hon'ble Shri R.C.Bhatt,

Member (J)

Mr.G.M.Shah, learned advocate for
the applicant. Mr.B.R.Kyada waives notice and appears
for the respondents.

2. This application is filed under
section 19 of the Administrative Tribunals Act, 1985 who
was serving with the respondents railway, ~~has filed this~~
~~application~~ seeking the relief that his case for the
post of KHALASI be considered ~~sympathetically~~. It is alleged
that the applicant on 10.8.75, when he was serving
as a GANGMAN in Gang No.17 at Palanpur, he received
injury in his left eye on duty., that he was then

to the Railway Hospital, Abu Road ~~on or about~~ and then he was declared unfit on or about 31-9-75. and was not ~~on~~ taken on duty ~~on~~ 17-1-78. ~~On~~ 02-2-81, again he received injury on the same eye while on duty when he was working ~~as~~ ^{as} a BELDAR under the I.O.W. Radhanpur and he ~~was~~ treated by the Railway Doctor and then he was taken on duty on ~~22~~ 9.5.1981.

3. It is the case of the applicant that when he was treated in the Railway Hospital at Bombay later ~~on~~, ^{on} he was told that the Doctor would remove his left injured eye and he may loose his entire vision to which he did not agree. It is alleged by him that the Railway Hospital Authority at that time got some papers signed by him and discharged him from the Hospital. According to him, again he was sent for medical checkup on 08.10.86 and he was declared unfit and was kept then out of duty for about two months and then taken on duty ^{as}, as MALI, which according to him ~~is~~ a punishment.

4. Learned advocate for the applicant submits that if the applicant is given an opportunity to ~~make~~ a proper representation about his case and if the respondents are directed to consider and dispose ~~of~~ his representation, the applicant would be satisfied. Mr. Kyada submits that the respondents would consider his representation according to rules, if directed accordingly.

Thus, we dispose of this application at the admission stage by giving directions as under :-

5.

The applicant, if wants to make a representation to the respondents about his case, he may do so within 8 days from the receipt of this order and to make the representation to the respondents, the respondent no.1. in his term may direct the DRM(E) Ajmer to dispose of the representation of the applicant according to rules within 3 months from the receipt of such representation if made by passing a speaking order and by intimating the applicant about the result of the order. Application is disposed of accordingly.

MR Kolhatkar

(M.R.KOLHATKAR)
Member (A)
Date: 11-11-93

R.C.Bhatt

(R.C.BHATT)
Member (J)
Date: 11-11-93

ssh

-4-

Subhanali S/o Ajim Mohamad,
Aged about 41, Adult,
Occupation: service in Railway,
residing at : Railway Colony,
Near Officer's rest house,
Palanpur (Dist.: Banaskantha)

: Applicant:

Advocate : Mr.G.M.Shah

versus

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

2. Inspector of Works,
Western Railway,
Palanpur

: Respondents:

Advocate : Mr.B.R.Kyada

ORAL JUDGEMENT

O.A.356/92

Date : 11-11-1993

Per : Hon'ble Shri R.C.Bhatt, Member (J)

Mr.G.M.Shah, learned advocate for the applicant. Mr.B.R.Kyada waives notice and appears for the respondents.

2. This application is filed under section 19 of the Administrative Tribunals Act, 1985, who was serving with the respondents railway, has filed this application seeking the relief that his case for the post of KHALASI ~~be~~ be considered carefully. It is alleged that the applicant that on 10.8.75, when he was serving as a GANGMAN in Gang No.17 at Palanpur, he received injury in his left eye on duty., that he was then sent

to the Railway Hospital, Abu Road on or about and then he was declared unfit on or about 31-9-75, and was not taken on duty on 17-1-78. On 02-2-81, again he received injury on the same eye while on duty when he was working as a BELDAR under the I.O.W. Radhanpur and he has treated by the Railway Doctor and then he was taken on duty on 22 9.5.1981.

3. It is the case of the applicant that when he was treated in the Railway Hospital at Bombay later he was told that the Doctor would remove his left injured eye and he may lose his entire vision to which he did not agree. It is alleged by him that the Railway Hospital Authority at that time got some papers signed by him and discharged him from the Hospital. According to him, again he was sent for medical checkup on 08.10.86 and he was declared unfit and was kept then out of duty for about two months and then taken on duty as MALI, which according to him as a punishment.

4. Learned advocate for the applicant submits that if the applicant is given an opportunity to make a proper representation about his case and if the respondents are directed to consider and dispose of his representation, the applicant would be satisfied. Mr. Kyada submits that the respondents would consider his representation according to rules, if directed accordingly.

Thus, we dispose of this application at the admission

stage by giving directions as under :-

5.

The applicant if wants to make a representation to the respondents about his case, he may do so within 8 days from the receipt of this order and making the representation to the respondents, the respondent no.1. in his term may direct the DRM(E) Ajmer to dispose of the representation of the applicant according to rules within 3 months from the receipt of such representation if made by passing a speaking order and by intimating the applicant about the result of the order.

Application is disposed of accordingly.

(M.R.KOLHATKAR)

Member (A)

Date: 11-11-93

(R.C.BHATT)

Member (J)

Date: 11-11-93

ssh