No Dismissal

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /361/92
~~T.A. No.~~

DATE OF DECISION 9.9.1992

Shri Murlidhran Madhavan Petitioner

Mr. U.M. Shastri Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent

Mr. N.S. Shevde, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan : Vice Chairman

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

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 ? ×

Shri Murlidhran Madhavan . Applicant

Vs.

1. The Union of India,
Through:
The General Manager,
Western Railway,
Churchgate,
Bombay- 20.

2. The District Signal and
Telecommunication
Engineer, (Constn.)
Western Railway,
Ahmedabad.

3. Assistant Signal & Telecom
Engineer (Const.)
Western Railway,
Ahmedabad- 2. . Respondents

O R A L O R D E R

O.A./361/92 Date: 9.9.1992

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

1. Heard Mr. U.M. Shastri, learned advocate for the applicant and Mr. N.S. Shevde, learned advocate for the respondents.

2. This application is filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, challenging the action of the respondents in issuing the charge sheet and concluding the enquiry by order dated 11th July, 1991. The learned advocate Mr. N.S. Shevde, at our request, has accepted the notice and filed his appearance. The learned advocate for the parties have no objection, if this application is

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disposed of at an admission stage itself.

3. The learned advocate Mr. Shastri for the applicant has drawn our attention to our previous decision on an identical matter arising in O.A./81/92 decided on 28the July, 1992. It is not in dispute that the applicant has not exhausted the statutory alternative remedy of filing appeal before approaching this Tribunal. Under these circumstances, the learned advocate for the applicant seeks permission to withdrawn this application but with the direction that the appellate authority may condone the delay in filing the appeal if such application for condonation of delay is filed by this applicant along with the appeal. The learned advocate for the respondents submitted that the period from the date of filing of this application till today may be excluded for the purpose of limitation by appellate authority, while the learned advocate for the applicant submits that the time spent from 11th July, 1991, i.e., from the date of the impugned order till today should be excluded for the purpose of limitation being the time spent bonafide in proceeding with the matter till today.

4. After hearing the learned advocates for the parties, we are satisfied that in the interest

of justice, we should make it clear that in case the applicant prefers an appeal before the appellate authority and also files an application for condonation of delay in filing the application, the period from the date of the impugned order (i.e. from 11th July, 1991) till today, that is the date on which we have passed this order shall be excluded while computing the period of limitation, because this period is spent in the bonafide belief by the applicant that the application could be filed directly before this Tribunal.

5. Application is disposed of at the admission stage as withdrawn with the above direction. There is no order as to costs.

(R.C. Bhatt)
Member (J)

(N.V. Krishnan)
Vice Chairman

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