

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /406/92
T.A. No.

DATE OF DECISION 07/5/1993

Shri A.G.Raj Petitioner

Mr.D.V.Mehta for Mr.B.P.Tanna Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr.Adeshra for Mr.Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt : Judicial Member

The Hon'ble Mr. M.R.Kolhatkar : Administrative Member

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 ?

...2...

Gulabsang Raj;

Santosh Vasahat,
Jail Road,
Bharuch,

.....applicant

Advocate Mr.D.V.Mehta for
Mr.B.P.Tanna

versus

1. Union of India
through
Secretary,
Department of Telecommunications,
New Delhi.

2. Telecom District Manager,
Nadiad.

.....respondents

Advocate Mr. Adeshra for
Mr. Akil Kureshi

ORAL ORDER

O.A./406/92

Date : 07/5/1993

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

Heard Mr.D.V.Mehta for Mr.B.P.Tanna

for the applicant and Mr. Adeshra for Mr. Akil Kureshi
for the respondents.

2. This application is filed by the applicant who was serving as Senior Grade Telecom Officer

Telephones, at Nadiad seeking the relief that the respondents be restrained from terminating his service. The applicant has amended the application by adding the relief that his dismissal order vide Annexure A/5 // passed by the respondent no.2 dated, 15th September, 1992 be quashed and set aside. The respondents have filed appearance as notice was issued to file reply on admission. The respondents have filed reply to O.A. as well as to the amended O.A.. We have heard the learned advocates for the parties. This application can be disposed of finally at the admission stage. The applicant has been dismissed from the service by the respondent no.2 by order dated 15th September, 1992 vide Annexure A/5 which reads as under.

WHEREAS SHRI A.G.RAJ, S.G.T.O.A. o/o the S.D.O.T. Nadiad has been convicted on a criminal charge to wit under Section 420 & 471 of I.P.C. vide Additional Chief Judicial Magistrate, Ahmedabad (Rural)'s judgement dated 28/12/1990.

AND WHEREAS it is considered that the conduct of said Shri A.G.Raj, S.G.T.O.A. o/o S.D.O.T., Nadiad, which has led to his conviction is such as to his

further retention in the public service undesirable.

NOW THEREFORE, the President/undersigned hereby dismissed the said Shri A.G.Raj S.G.T.O.A. O/O S.D.O.T., Nadiad from service with effect from 17/9/1992

3. The attention ~~is~~ of the learned advocate for the applicant was drawn to rule 23 (ii) of CCS (CCA) 1965, which says that an order imposing any of the penalties specified in ~~unappealable~~ Rule 11 is an appellate order. Rule 11 includes the penalty of dismissal from service which shall ordinarily be a disqualification for future employment under the Government. This is the ~~penalty~~ under Rule 11 (ix). It is not disputed before us that the applicant has not preferred an appeal against his order of dismissal which is by way of punishment. The question, therefore, arises whether the applicant is entitled to approach this Tribunal without exhausting that alternative statutory remedy under Rule 23 (ii).

Section 20 of the Administrative Tribunal Act, 1985

~~debars~~ debars the applicant from coming to this Tribunal

~~before~~ before exhausting that remedy. In view of this position, we hold that this application is not ~~maintainable~~ maintainable. However, the applicant if he so desires may file an appeal before the Appellate

authority under Rule 23 of CCS (CCA) Rules 1965, and if he makes an application for condonation of delay in filing the said appeal, the Appellate authority should condone the delay in filing the appeal and should dispose it of according to rules. Hence, we pass the following order.

4.

O R D E R

The application is dismissed as not maintainable under section 20 of the Administrative Tribunal Act, 1985. The applicant at liberty to file an appeal before the Appellate authority under Rules 23 of CCS (CCA) Rule 1965 and if he files also the application for condonation of delay in filing the said appeal, the Appellate authority shall condone the delay and dispose of the appeal according to rules. The applicant to file appeal within the 15 days from the date of receipt of this order. The application is disposed of. No order as to costs.

M.R.Kolhatkar

(M.R.Kolhatkar)

Member (A)

R.C.Bhatt

(R.C.Bhatt)

Member (J)

*SS

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O R A L O R D E R

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(M.R.Kolhatkar)

(R.C.Bhatt)

Member (A)

Member (J)

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