

**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 ? ✗

Gulabsang Raj;  
Santoshi 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 Office

Telegraphes, 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 reversion 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 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 Rule 11 is an <sup>appealable</sup> ~~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). <sup>It</sup> 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 <sup>debars</sup> ~~debars~~ the applicant from coming to this Tribunal before exhausting that remedy. In view <sup>of</sup> ~~L~~ this position, we hold that this application is not maintainable. However, the applicant if he so desires may <sup>L</sup> 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.

ORDER

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)



O.A/406/92

DATE	OFFICE REPORT	ORDERS
24.2.93.	XXXXXX.	
4		
26.2.93.		<p>Mr. Mehta for Mr. Tanna submits that the applicant has filed M.A. to take an order of dismissal on record. He should go to the office and to verify, if there is any objections, <del>if</del> he should removed in it. The matter is adjourned to 26.2.93.</p> <p>MEMBER (A) (V. RADHAKRISHNAN)</p> <p>JUDICIAL MEMBER (R.C. BHATT)</p> <p>*SS</p> <p>Mr. Mehta for Tanna learned advocate for the applicant submits that the applicant has filed M.A. in this matter. The Office to put the M.A. with O.A. on 9th March, 1993.</p> <p>(V. Radhakrishnan) Member (A)</p> <p>(R.C. Bhatt) Member (J)</p> <p>*K</p> <p>Heard</p> <p>None for the applicant. Mr. Akil Kureshi learned advocate for the respondents. M.A./64/92 is allowed. Amendment is permitted and may be carried out within two <del>xxx</del> days. The respondents may be filed reply to the amended application within two weeks.</p> <p>(V. Radhakrishnan) Member (A)</p> <p>(N.B. Patel) Vice Chairman</p> <p>*K</p>
9.3.93		<p>Amendment on 22.3.93 Reply filed Reminder Reply to amended portion filed.</p> <p>Res. Sub.</p> <p>9.3.93</p>
26.2.93.		<p>Res. Sub. para 7 put up from 5.3.93</p> <p>1993.</p> <p>(V. Radhakrishnan) Member (A)</p> <p>(R.C. Bhatt) Member (J)</p> <p>*K</p>
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( M.R.Kolhatkar )

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