

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 24 of 2 1992
T.A.NO.

DATE OF DECISION 19.04.2000

Shri. J. A. Patel Petitioner

Mr. K.K. Shah Advocate for the Petitioner [s]

Versus

Union of India & Ors. Respondent

Mr. N. S. Shevde Advocate for the Respondent [s]

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The Hon'ble Mr. V. Ramakrishnan : Vice Chairman

The Hon'ble Mr. P. C. Kannan : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ☒
- 2, To be referred to the Reporter or not ? ☒
- 3, Whether their Lordships wish to see the fair copy of the Judgment ? ☐
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ☒

Shri. J. A. Patel
A/84, Kotayrk Nagar Society,
Mahadev Tula, Baroda.

= Applicant =

Advocate : Mr. K. K. Shah

Versus

1. Union of India
Notice to be served through
Western Railway, Church gate,
Mumbai.
2. Chief Personnel Officer,
W.Rly., Church gate,
Mumbai.
3. ADRM / BRC,
Pratapnagar, Baroda.
4. Divisional Personnel Officer,
Baroda Dn. W.Rly.,
Pratapnagar, Baroda.

= Respondents =

Advocate : Mr. N. S. Shevde

**ORAL ORDER
O.A 24 OF 1992**

Date : 19.04.2000

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

We have heard Mr. K. K. Shah for the applicant and Mr. Shevde for the
Railway Administration.

2. The applicant is aggrieved by the order of the disciplinary authority, appellate authority and also the revising authority which inflicted certain penalty on him on the basis of the disciplinary proceedings. We find that after the inquiry, the disciplinary authority had imposed the penalty of removal from service by its order dated 27.02.91. He filed an appeal against this order which was disposed of by the appellate authority by its order dated 28.05.91 as at Annexure A/8 where the penalty for removal from service was reduced to that of reduction to the post of senior clerk in the lower grade in the scale of Rs.1200-2040/- at the pay of Rs.1660/- without effect for two years. There is also an observation that he should be transferred in a section where staff dealing is not involved. However, the Chief Personal Officer, who is the revising authority suo moto took the view that the orders of the appellate authority were too lenient and that the orders of the disciplinary authority imposing the penalty of removal from service should be restored. He gave a show cause notice dated 02.08.91 as at Annexure A/1 where he had given certain reasons. The applicant submitted a reply to the show cause notice and after considering the same, the C.P.O., who is the revising authority issued order dated 15.10.91 where he inflicted the penalty of removal of service.

3. In the present O.A, these orders of the disciplinary authority, appellate authority and revising authority are challenged. However, Mr. K. K. Shah now makes it clear that the applicant would be satisfied with the orders of the appellate authority which has reduced the penalty of removal to that of reduction to the lower grade. He also brings out that the appellate authority himself has stated that the employees' past record of 28 years of service was not only satisfactory and blemishless and that he has to be credited award certificate of Divisional Superintendent in

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the year 1971, 1980 and 1981. Mr. Shah says that the applicant is due for retirement in another year. He also has a mentally retarded child and his case deserves sympathetic consideration. He states that the action followed by the revising authority is quite un-usual as he has chosen to restore the penalty of removal from service and has overruled the orders of the appellate authority who has taken into account relevant aspects while issuing the orders. Mr. Shah says that a direction may be given to restore the order of the appellate authority.


4. Mr. Shevde takes a preliminary objection that the order of the CPO which is a revising authority restoring the penalty of removal from service is in the nature of a fresh order and in the Rule-18 of the Railway Servants (Discipline and Appeal) Rules, an appeal lies against such order imposed by the revising authority. Mr. Shevde further submits that as the revision authority in this case is the C.P.O., the appeal should have been filed to the General Manager, Western Railway. The learned standing counsel also states that it is incumbent on the part of the applicant to have exhausted the remedy of appeal before approaching the Tribunal in terms of the clear rule position as laid down.

5. We have considered the contentions of both sides. We find force in the submission of Mr. Shevde that the applicant in this case ought to have exhausted statutory remedy available to him by approaching the General Manager against the order of the C.P.O. who is the revising authority. At the same time we take note of the submission of Mr. Shah that the position is somewhat un-usual and that the applicant had over 29 years of blemish-less service earlier and that he has got just a year of service and that in the normal course he would have retired in 2001 if the

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penalty of removal had not been inflicted on him. Mr. Shah also refers to the domestic difficulties of the applicant. In the circumstances, the applicant may file a detailed appeal to the General Manager bringing out various contentions and seeking a sympathetic disposal of the appeal particularly as the applicant now states that he would be satisfied with the orders of the appellate authority. Mr. Shah says that the applicant will now file an appeal within one month from the date of receipt of a copy of this order. If he does so, the General Manager shall dispose of the appeal on merits without taking the plea of limitation within two months from the date of receipt of such appeal. We make it clear that the General Manager shall not be influenced by the fact that the revising authority was based in Headquarter and he shall deal with the appeal objectively on merits. We have no doubt that while disposing of such an appeal, the General Manager, who is the appellate authority will take into account all relevant circumstances and come to an appropriate finding.

4. With the above direction, the O.A is finally disposed of with no orders as to costs.


(P. C. Kannan)
Member (J)


(V. Ramakrishnan)
Vice Chairman

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<div>तारीख</div> <div>DATE</div>	<div>कार्यालय टिप्पणी</div> <div>OFFICE REPORT</div>	<div>आदेश</div> <div>ORDER</div>
21.8.2000		<p>Mr.K.K.Shah has been shown M.A. St.433/2000. The other objections regarding non-enclosure of copy of judgment is waived. Registry to give a regular number.</p> <p>Seen M.A. 462/2000 and also heard Mr.K.K.Shah. In the circumstances stated that the time for compliance of the Tribunal's direction is extended upto 14.10.2000 as prayed for. M.A. stands disposed of.</p> <p style="text-align: right;">  (V.Ramakrishnan) vice Chairman </p> <p>vtc.</p>