

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 227 OF 1993.
~~T.A. No.~~

DATE OF DECISION 14-5-1993.

R.B. Gumare, **Petitioner**

Mr. P.K. Handa, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. M.R. Kolhatkar, Admn. 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 ? ✗

R.B. Gumare,
Near Railway Station,
Jakatnaka,
Vishwamitri,
Baroda.
(Advocate: Mr. P.K. Handa)

.... Applicant.

Versus.

1. Union of India, through
Secretary,
Ministry of Labour,
New Delhi.
 2. Regional Labour Commissioner (Central)
Shram Bhavan, Near Lal Darwaja,
Mezennine Floor, Khanpur,
Ahmedabad.
 3. Asstt. Labour Commissioner (Central)
Near Lal Darwaja,
Ahmedabad.
 4. Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda.
- Respondents.

J U D G M E N T

O.A.No. 227 OF 1993

Date: 14-5-1993.

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

Heard Mr. P.K. Handa, learned advocate for
the applicant.

2. The applicant has filed this application
under section 19 of the Administrative Tribunals Act,
1985, for direction to the Respondent No.1, Union of
India, through Secretary, Ministry of Labour, New Del
to refer ~~to~~ the case of the applicant to the
Industrial Tribunal. We have heard the learned
advocate for the applicant on admission. The case
of the applicant as pleaded in the application is tha
he was appointed as Khalasi in the year 1968-69 in

Western Railway, Baroda Division, to work as Pump attendant. It is alleged by him that he was removed from service as a ~~result of~~ ^{me} measure of penalty on 4th October, 1977 on the ground of unauthorised absence and he is not paid his settlement dues. The applicant, thereafter, submitted an appeal on 30th October, 1979 to the Divisional Superintendent, Baroda, ^{me who} i.e., respondent No.4, ~~which~~ dismissed the appeal and the confirmed / order of the disciplinary authority.

The applicant has not given the date on which the ^{his letter dated 3.4.91} appeal was dismissed. Ultimately the applicant by / moved for conciliation before the Assistant Labour Commissioner (Central) Ahmedabad raising an industrial dispute over his removal from service by the management of Western Railway, Baroda. The applicant has produced the failure of conciliation report dated 30th August, 1991 of A.L.C.(C) Ahmedabad in which it is mentioned that parties were called for joint discussion on 15th May, 1991 but none from the Railway Administration attended and again the matter was adjourned to 20th June, 1991 but the Railway Administration failed to put up their appearance.

^{me} The applicant workmen had raised the issue about the ^{before A.L.C.(C) Ahmedabad} illegal termination of his service. The proceeding / concluded ex-parte. ^{me} Workmen- applicant agreed for voluntary arbitration, but the Conciliator was not able to ascertain it because the management had not remained present. So the failure report was submitted

by the A.L.C(C) Ahmedabad to the Secretary to Govt. of India, Ministry of Labour, New Delhi, i.e.,
No.1
respondent No.1. The respondent/ had then intimated vide
/ Annexure A dated 6th March, 1992 which is under challenge by the applicant as under:

"It has been observed that the dispute has been raised belatedly i.e., after a lapse of 10 years of the cause of action without explaining the justified reasons for the delay in raising the dispute".

This intimation was sent to the applicant and to the Respondent No.4 and also ^{to} the Senior Divisional Electrical Engineer, Baroda. Annexure A shows that the respondent No.1 had received the FOC Report dated 13th August, 1991 of ALC(C) Ahmedabad and after considering it, the Respondent No.1 did not consider this to be a fit case for reference for adjudication because the dispute had been raised after a lapse of 10 years. The applicant in his application has mentioned that the reasons for delay were already explained to Asstt. Labour Commissioner (C) Ahmedabad who being satisfied, the case was sent to Ministry of Labour. The learned advocate for the applicant submitted that there is no limitation for making reference for adjudication of the Industrial Dispute raised by the applicant and the respondent No.1 was bound to make a reference for adjudication to the Industrial Tribunal or the Labour Court according to rules. We do not agree with the submission of the

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learned advocate for the applicant because the applicant was removed from service on 4th October, 1977 and his appeal was also dismissed. The applicant as observed above, has not given the date of the dismissal of the appeal but the reference which he seeks of the alleged Industrial Dispute was after a lapse of 10 years which is not disputed by the learned advocate for the applicant and therefore, in our opinion, the impugned order Annexure A of respondent No.1 dated 6th March, 1992 does not suffer from any illegality because the order is passed, taking into consideration the delay and laches on the part of the applicant about the period of 10 years, we therefore, see no justification in holding that the impugned order Annexure A is illegal. It can not be held that the respondent No.1 was bound to make reference for adjudication. The respondent No.1 has given the reason for not making a reference for adjudication and we do not deem ^{it fit} to / admit this application. Hence the application is rejected summararily.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

R.C. Bhatt

(R.C. Bhatt)
Member (J)

• vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 227 of 1983

Transfer Application No. _____ Old W. Pett. No

CERTIFICATE

Certified that no further action is required to be
taken and the case is fit for consignment to the
Record Room (Decided)

Dated : 28/5/83

Countersigned :

Shayon
96/93

Section Officer/Court officer

K. Shama
Signature of the Dealing
Assistant

INDEX SHEET

NAMES OF THE PARTIES Sh. R. B. Gurnale.

C. A. L. & S.

[illegible]