

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

No
Inquiry

~~O.A. No.~~ O.A. St./174/92
~~I.A. No.~~

DATE OF DECISION 5th February, 1993

Asharam Mohandas Khalasi Petitioner

Sudha Gangwar Advocate for the Petitioner(s)

Versus

Union of India Respondent

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 ?

Asharam Mohandas Khalasi,
at Surendranagar.

....applicant

(Advocate : Sudha Gangwar)

versus

The Competent Authority,
Western Railway, (G),
Office of the Divisional
Railway, Rajkot.

...respondent

O R A L O R D E R

O.A.St.174/92

Date : 5.2.93

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

The application came up before us with a note dated 6.1.93, from the Registry, stating that none was present in the Registry and the objection has not been removed.

2. It is also stated that notices had been issued on 28.9.92 and 1.12.92 to the counsel. The learned counsel for the applicant has not yet rectified the defects.

3. None is present today. In the circumstances, the application is dismissed in default.

Neil

(R.C.Bhatt)

Member (J)

Devu
5/4/93

(N.V.Krishnan)

Vice Chairman

*SS

M.A.567/93

in
O.A.ST.174/92

DATE & TIME REPORT

ORDER

19.10.93

Mrs. Sudha Gangwar is present for the applicant. In M.A.567/93, in the interest of justice, this M.A. for restoration of O.A.st.174/92. ~~M.A.~~ is allowed and order of dismissal of O.A.st.174/92 is set aside and is restored to file. The applicant to remove the office objections, if any, by 2.11.93. If the objection is not removed by that date, the matter be placed for order on 3.11.93. M.A. is disposed of.

Call on 3.11.93.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member (A)

R.C.Bhatt
(R.C.BHATT)
Member (J)

ssh

3-11-93

- 1) Union of India is joined as Party, ~~is not~~ but
- 2) Spare copy of O.A. for purpose of notice to U.O.G. is not supplied by applicant.
- 3) However, regular numbers is given.

By me
1993 *DR/(J) Pratinidhi*
not 8/11/93 *CBF/93* *3.11.93*

Ms.Rukhsana for Ms.Sudha Gangwar for the applicant submits that the applicant has removed the office objections. If the office objections removed, the matter be placed for admission after giving the regular number on 8-11-93.

M.R.Kolhatkar
(M.R.KOLHATKAR)
Member (A)

R.C.Bhatt
(R.C.BHATT)
Member (J)

ssh

O.A.649/93

10-11-93

Miss Rukhasana for Miss Sudha Gangwar for
the applicant seeks time.

Call on 24-11-93.

MR Kolhatkar

(M.R.KOLHATKAR)
Member (A)

RB

(R.C.BHATT)
Member (J)

ssh

24-11-93

None is present for the applicant.
In the interest of justice, the matter
is adjourned to 15-12-93.

MR Kolhatkar

(M.R.KOLHATKAR)
Member (A)

RB

(R.C.BHATT)
Member (J)

ssh

15-12-1993

Notice and notice as to interim
relief returnable on 19-1-1994.

R

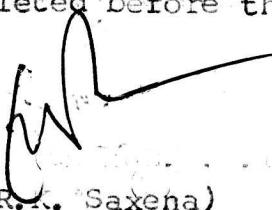
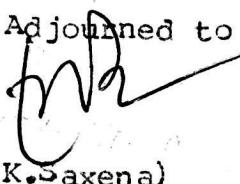
(K. Ramamoorthy)
Member (A)

Y

(N.B.Patel)
Vice Chairman

*AS.

Resub:
1) Notice
issued on
23-11-93.
2) R.P.A.D
availed
Anand
20/11/18-194

Date	Office Report	ORDER
8-8-94		<p>Spare copy of O.A. for purpose of notice to respondents is not supplied by the applicant and notice is issued on 1-3-1994 without spare copy of O.A. Divisional Railway Manager, Western Railway Rajkot has made a specific reference on <u>its part</u> on 23-3-1994.</p> <p>Ms. Sudha Gangwar, counsel for the applicant has personally undertaken to provide a copy of the application to Mr. Kyada. May be placed for final hearing on 12-9-1994. All the pleadings may be completed before that date.</p> <p></p> <p>(Dr. R.K. Saxena) Member (J)</p> <p></p> <p>(K. Ramamoorthy) Member (A)</p> <p>*AS.</p>
12-9-94		<p>Ms. Sudha Gangwar for the applicant is pre Mr. B.R. Kyada for the respondents has filed leave note. Adjourned to 22-9-1994.</p> <p></p> <p>(Dr. R.K. Saxena) Member (J)</p> <p></p> <p>(K. Ramamoorthy) Member (A)</p> <p>vtc.</p>
22.9.1994.	Replies received S/250	<p>At the request of Mr. B.R. Kyada, adjourned to 28.11.1994, for filing reply.</p> <p></p> <p>(Dr. R.K. Saxena) Member (J)</p> <p></p> <p>(K. Ramamoorthy) Member (A)</p> <p>ait.</p>

Date	Office Report	ORDER
28-11-94		<p>Ms. Gangwar is present on behalf of the applicant. At the request of Mr. Kyada, adjourned to 12-12-94.</p> <p><i>WS</i></p>
		<p><i>VR</i></p> <p>(Dr. R.K. Saxena) Member (J)</p> <p>(V. Radhakrishnan) Member (A)</p>
12.12.94.		<p>Reply not filed. Mr. B.R. Kyada seeks time to file reply. Reply may be filed within two weeks, applicant's counsel may file rejoinder if any within one week thereafter. Adjourned to 13.1.1995.</p> <p><i>WS</i></p>
		<p><i>VR</i></p> <p>(Dr. R.K. Saxena) Member (J)</p> <p>(V. Radhakrishnan) Member (A)</p>
13-1-95		<p>HEARD LEARNED ADVOCATE FOR THE APPLICANT AND TOANTS ORAL ORDER PRONOUNCED IN OPEN COURT, as a</p> <p><i>WS</i></p> <p><i>VR</i></p> <p>Dr. R.K. Saxena Member (J)</p> <p>V. Radhakrishnan Member (A)</p>

Date	Office Report	Order
11/4/94	advised respondent to file a notice of construction within 15 days of the date of hearing. Interim relief continued till 11-6-94.	ready at the time of final hearing. Call on 11-4-1994. R
		(K.Ramamoorthy) Member (A) (N.B.Patel) Vice Chairman
		*AS
15-6-94	Mr. B.R.Kyada for the respondents has filed leave note. At the request of learned counsel for the applicant, the case is adjourned to 21-6-1994. Interim Relief continued till then.	other As the learned Member of the Bench is not available the matter is adjourned to 15/6/94. R 2 K. RAMAMOORTHY MEMBER (A)
21.6.1994.	(Dr.R.K.Saxena) Member (J)	(K.Ramamoorthy) Member (A)
	Sick note filed by Mr. B.R.Kyada. Adjourned to 8.8.1994.	R K. RAMAMOORTHY Member (A)
	(Dr.R.K.Saxena) Member (J)	
	ait.	

Date	Office Report	Order
19.1.94	<p>Final hearing date fixed on 31-1-94 no notice issued to either party.</p> <p><u>Res. subi</u> <u>Reply not filed.</u> <u>Rejoinder</u> <u>20/1/94</u></p>	<p>Ms. Shaikh for Ms. Gangwar states that Ms. Gangwar is sick. Adjourned to 31-1-94.</p> <p><i>[Signature]</i></p> <p>(V. Radhakrishnan) Member (A)</p> <p><i>[Signature]</i></p> <p>(N. B. Patel) Vice Chairman</p>
31.1.94		<p>Ms. Rukhsana is present for Ms. Gangwar.</p> <p>Mr. Kyada files appearance. Adjourned to 21-2-94 for filing reply.</p> <p><i>[Signature]</i></p> <p>(K. Ramamoorthy) Member (A)</p> <p><i>[Signature]</i></p> <p>(N. B. Patel) Vice Chairman</p>
21-2-94	<p>Reply not filed.</p> <p><i>[Signature]</i> <i>[Signature]</i></p>	<p>Reply is not filed. <u>Admitted</u>. If the respondents desire to file reply, they may do so on or before 07-3-94 before the office. Rejoinder, may be filed within one week after the filing of the reply. After the pleadings are completed, the matter may be fixed for final hearing on 11-4-1994.</p> <p>Respondents to keep the inquiry proceedings</p>

Date	Office Report	ORDER
8-8-94		<p>Spare copy of O.A. for purpose of notice to respondents is not supplied by the applicant and notice is issued on 1-3-11994 without spare copy of O.A.. Divisional Railway Manager, Western Railway Rajkot has made a specific reference on its part on 23-3-1994.</p> <p>Ms. Sudha Gangwar, counsel for the applicant has personally undertaken to provide a copy of the application to Mr. Kyada. May be placed for final hearing on 12-9-1994. All the pleadings may be completed before that date.</p>
12-9-94		<p>(Dr. R.K. Saxena) Member (J)</p> <p>(K. Ramamoorthy) Member (A)</p> <p>*AS.</p> <p>Ms. Sudha Gangwar for the applicant is present. Mr. B.R. Kyada for the respondents has filed leave note. Adjourned to 22-9-1994.</p>
22.9.1994.	<p><i>rely not filed</i></p>	<p>(Dr.R.K.Saxena) Member (J)</p> <p>(K.Ramamoorthy) Member (A)</p> <p>vtc.</p> <p>At the request of Mr.B.R.Kyada, adjourned to 28.11.1994, for filing reply.</p>
		<p>(Dr.R.K.Saxena) Member (J)</p> <p>(K.Ramamoorthy) Member (A)</p> <p>ait.</p>

OA 649/93

Date	Office Report	ORDER
28-11-94		<p>Ms. Gangwar is present on behalf of the applicant. At the request of Mr. Kyada, adjourned to 12-12-94.</p>
		<p>(Dr. R.K. Saxena) Member (J)</p> <p>(V. Radhakrishnan) Member (A)</p>
		<p>ssh*</p>
12.12.94.		<p>Reply not filed. Mr. B.R. Kyada seeks time to file reply. Reply may be filed within two weeks, applicant's counsel may file rejoinder if any within one week thereafter. Adjourned to 13.1.1995.</p>
		<p>(Dr. R.K. Saxena) Member (J)</p> <p>(V. Radhakrishnan) Member (A)</p>
		<p>ait.</p>
13-1-95		<p>HEARD LEARNED ADVOCATE FOR THE APPLICANT AND THE PLAINTIFFS ORAL ORDER PRONOUNCED IN OPEN COURT as withdrawn</p>
	<p>AMAROOL CO/II</p>	<p>Dr. R.K. Saxena member (J)</p> <p>C.V. Radhakrishnan member (A)</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 649/93
T.A. No.

DATE OF DECISION 13-1-1995

Asharam M. Khalasi Petitioner

Ms. Sudha Gangwar Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V. Radhakrishnan Member (A)

The Hon'ble Mr. Dr. R.K. Saxena 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 ?

No

Asharam Mohandas Khalasi
at Surendranagar.

... Applicant

Advocate Ms. Sudha Gangwar

versus

The Divisional Manager,
Western Railway (G),
office of the Divisional
Railway, Rajkot.

... Respondent

Advocate Mr. B.R. Kyada

ORAL ORDER

O.A.649/93

Date: 13.1.95

Per Hon'ble Dr. R. K. Saxena Member (J)

The applicant Asharam Mohandas approached this Tribunal seeking quashment of the penalty order dated 18.2.1992 passed by the Disciplinary Authority removing him from service, and the order dated 20.4.1992 passed in the appeal dismissing the same by the Appellate Authority.

2. The brief facts of the case are that the applicant was serving as Khalasi with General Loco Service Centre, Surendranagar from 1957. In the year 1981 Surendranagar General Loco Service Centre was closed and the staff of the centre was transferred to Dhrangadhra. Accordingly, the applicant was also transferred and he joined there. Soon thereafter, he was again transferred to Hapa, and after handing over the charge at Dhrangadhra, he proceeded to Hapa, but before

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n

he could join at Hapa, the transfer order was cancelled and then he became Trishanku because neither he could take charge at Dhrangadhra, nor was posted at any other place. It is contended on behalf of the applicant, that he had been reporting daily, but neither his posting was made, nor was any work allotted to him. This situation continued from 1981 to 1989, ^{and abeeve could be known only} when the Assistant Loco Forman, Surendranagar, reported to Asstt. Mechanical Engineer, Rajkot that the applicant was absent from 9.2.1981. On the basis of this report dated 9.12.1989 of Assistant Loco Forman, Surendranagar, the chargesheet was framed against the applicant and was served on him. The applicant denied the charges, but at the same time certain copies of the documents relied-upon by the department, were demanded. It appears that the copies were not furnished to him. He therefore, did not attend the proceedings. It is clear from the letter of the Inquiry Officer by which the applicant was required to attend to the proceedings before him on 19.8.1991. ^{at Bar} A confused statement has been made, during arguments in this regard because on the one hand it was stated that the applicant did not appear despite the letter of the inquiry officer, but on the other hand it was pointed out that the applicant had appeared. However, it appears from the facts of this case that inquiry proceeded in the absence of the applicant and order of punishment was passed on 18.2.1992, and the appeal was also rejected.

3. In this case the respondents have not filed any reply despite the fact that this application was instituted on 5.2.1993 and the notices were issued to the respondents. The notice was presumably served on 15.12.93. Mr. Kyada, Standing Counsel for the respondents has pointed out that despite the fact of his having written to the department, reply could not be filed. He however, assisted the Tribunal in placing the facts and legal aspects of the case in the matter.

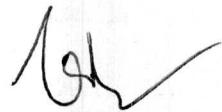
4. The learned counsel for the applicant has pointed out several illegalities and irregularities in the inquiry. She also argued that neither the notice was served on the applicant nor ^{was} ~~the order of removal was~~ passed by the Disciplinary Authority. According to her, a copy of the report of the inquiry officer and show-cause-notice ought to have served on the applicant before passing such order, because the impugned order of punishment was passed after the judgment was rendered by the Hon'ble Supreme Court in Ramzankhan's case. Any way, this point ought to have taken into consideration by the ^{the} Disciplinary Authority as well as Appellate Authority.

5. In this case, the applicant has not exhausted the remedy of revision. Soon after the appeal was dismissed, this O.A. was filed here. In our view, the applicant ought to have exhausted the remedy including revision, and only then he could have approached the Tribunal.

6. The learned counsel for the applicant in view of this fact prays for withdrawal of the application, so that the Revision Application may be filed before the Revisional Authority. We allow the prayer to withdraw this O.A. and to prefer the Revision Application within ^a fortnight from today. The Revisional Authority shall not take the plea of limitation into consideration because the matter had been prosecuted by the applicant before the Tribunal in ignorance of the provision of Revision as one of the remedies. Revisional Authority is further directed to dispose of the Revision within the period of three months. O.A. stands disposed of accordingly. No order as to costs.



(Dr. R.K. Saxena)
Member (J)



(V. Radhakrishnan)
Member (A)

npm.