

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. /98/93  
T.A. No.

DATE OF DECISION 11 / 6 / 93

Kanubhai R. Patel Petitioner

Shri S. Tripathi & P. B. Sharma, Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

\_\_\_\_\_  
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 ? ✗



Gujarat, to expunge the adverse remarks from the confidential report (CR) of the applicant for the year of 1986-87 to set aside the order of promotion of Respondent no.4 (Shri P.A.Malwade) who is stated to be junior to the applicant and to issue a direction to the respondents to consider the applicant for promotion to the post of Additional Chief Conservator of Forests treating the adverse remarks in his C.R. to have been expunged.

2. The adverse remarks pertaining to the year of 1986-87 were communicated to the applicant under Government of Gujarat letter dated 18/1/1988. Annexure B. The applicant represented against this communication on 17/3/88 vide Annexure C. The applicant came to know about the promotion of respondent no.4 on 20th August, 1991 vide charge assumption report kept at Annexure F. The applicant made representations regarding injustice in promotion on 15th August, 1991, / 22nd August, 1991 and on 23rd September, 1991 vide Ann.G and H. **Incidentally**, inspite of clear directions, Applicant failed to file English translation of Gujarati letter dated 15/8/91 (Annexure E.)

3. The application was filed on 19/2/92, i.e. within 1 year of the issue of Ann.F. The applicant

however, has primarily agitated the issue of expunction of adverse remarks on which the claim for promotion is based. On this basis, the application was prima facie time barred. On 19/4/1993, this Tribunal had passed the following order :-

" The learned advocate for the applicant was put a question about the limitation because the adverse remarks sought to be expunged in this regard relate to the year 1986-87. He submitted that time be given to him to make an application for condonation of delay in filing this application. Time is granted upto 10/5/93. to make this application for condonation of delay-. The applicant also to furnish by that time true <sup>a</sup> translation of the documents which are in Gujarati".

4. When the matter came up before this Tribunal, on 10/5/93, in terms of above order, the learned advocate for the <sup>applicant</sup> applicant strenuously argued that the grievance of expunction of adverse remarks and of the promotion of the ~~the~~ junior were interrelated and since the promotion of the junior took place on 20th August, 1991, this application is within limitation and he was not inclined to file an application for condonation of delay. After hearing the applicant, we reserved for the matter for judgement.

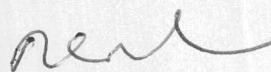
5. Admittedly, the adverse remarks pertain to CR of the year of 1986-87 and were communicated by letter dated 18/1/88 and the representation was made on 17/3/88.

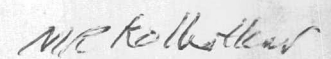
Failing to receive a reply the applicant ought to have approached the Tribunal on or before 17/3/89. The applicant however, appears to have slept over the matter. He sent a reminder to the Government of Gujarat fully more than 1 year after original representation namely 5/8/89 Annexure D. and he appears to have remained silent thereafter for two years. He bestirred himself when his junior was promoted by notification no. AST/1291/c-IV-1 dated 12th August, 1991. The applicant has not filed a copy of this notification. He has only produced a copy of the charge assumption report dated 20th August, 1991. We cannot see how this Tribunal can do anything about assumption of charge by an officer when the orders of promotion are neither produced nor specifically challenged.

5. To the extent, the request is for the expunction of adverse remarks, the same is hopelessly barred by limitation. So far as non promotion is concerned, to the extent the plea is also based on prior expunction of adverse remarks, it is also time barred.

6. Taking non promotion as a cause of action, the case, then becomes a case of plural remedies based on ~~ex~~ plural causes of action viz. adverse remarks and non promotion. It is therefore, barred by Rule 10 of C.A.T. (Procedure) Rules 1987 which is of a binding character.

7. After considering all the documents on record, and arguments of the applicant's advocate, we are of the view, that the application cannot be entertained for the above reasons. Hence, the application is dismissed. No order as to costs.

  
( R.C. Bhatt )  
Member (J)

  
( M.R. Kolhatkar )  
Member (A)

DATE	OFFICE REPORT	ORDER
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25.10.93.

Heard Mr.P.B.Sharma for the applicant. Learned advocate for the applicant does not press the relief in para 7 (a) and the sentence in para 7 (c)

" and his service records treating the adverse remarks in his confidential report to have been expunged."

because the applicant has filed separate O.A.551/93. The applicant to delete this relief in para 7 within a week. Admit. Issue notice to the respondents to file reply/within 4 weeks. The applicant at liberty to file rejoinder within 2 weeks thereafter. D.R.(J) then to list the matter for final hearing in due course.

*provisional am  
01-11-93  
[Signature]*

*Sw (S) 31  
01-11-93*

*Notice issued  
on 22.6.49*

*R.P.MD relieving  
for R 1,2,3,5*

*21/7/93*

*M.R. Kolhatkar*

(M.R. KOLHATKAR)  
Member (A)

*NS*

(R.C. BHATT)  
Member (J)

ssh

25.10.93.

Heard Mr.P.B.Sharma for the applicant. Learned advocate for

the applicant. **ORDER** does not press the relief

in para 7 (a) and the sentence in para 7 (c)



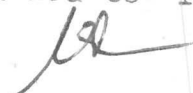

" and his service *Records* treating the adverse remarks in his confidential report to have been expunged."

because the applicant has filed separate O.A.551/93. The applicant to delete this relief in para 7 within a week. Admit. Issue notice to the respondents to file reply/<sup>on merits</sup> within 4 weeks. The applicant at liberty to file rejoinder within 2 weeks thereafter. D.P.(J) then to list the matter for final hearing in due course.

(M.R.KOLHATKAR)  
Member (A)

(R.C.BHATT)  
Member (J)

ssh

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
22.7-99		<p>Mr.Rao files appearance for respon- -dent No.1. None has appeared on behalf of the State Government. The State Government is directed to nominate the counsel.</p> <p>Call on 24-9-99.</p> <p> (A.S.SANGHAVI) MEMBER (J)</p>
24.9.99		<p>ss</p> <p>Time being over, adjourned to 15.11.99.</p> <p> (A.S.Sanghavi) Member(J)</p> <p> (V.Radhakrishnan) Member(A)</p>
15.11.99		<p>nkk</p> <p>In view of the resolution passed by Bar Association for abstain<sup>in</sup> from work in honour of memory of late Shri V.S. Mehta, adjourned to 4.1.2000.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>Pt</p>

तारीख  
DATE

कार्यालय टिप्पणी  
OFFICE REPORT

आदेश  
ORDER

4.1.2000

Mr.M.S.Rao for respondent No:1 is present. Mr.P.B.Sharma, Mr.Tripathy and Mr.Adhvaryu are not present. Adjourned to 12.1.2000.

*Pn*

(P.C.Kannan)  
Member (J)

nkk

12.1.2000

Division Bench matter. Adjourned to 28.2.2000.

*As*

(A.S.Sanghavi)  
Member (J)

nkk

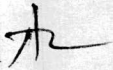
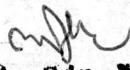


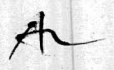
28.2.2000

Seen resolution of the Bar Association to abstain from work today except very urgent matters, as a mark of respect to the demise of Hon'ble Shri M. Srinivasan, sitting Judge of the Hon'ble Supreme Court. Adjourned to 4.5.2000.

*Pn*

(B.C. Kannan)  
Member (J)

Pkn

दिनांक DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
4.5.2000		Division Bench matter. Adjourned to 16.6.2000.   (A.S. Sanghavi) Member (J)
* 16.6.2000		nkk Mr. Adhvaryu, counsel for the State Government, is not present. Adjourned finally to 21.06.2000.   (M. P. Singh) Member (A)   (P. C. Kannan) Member (J)
21.6.2000		mb Oral order dictated in the Open Court.   ( M.P.Singh ) Member (A)   ( A.S.Sanghavi ) Member (J)
		nkk

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A.NO./ 98/93**

~~**CA.NO.**~~

DATE OF DECISION : 21.6.2000

Mr.K.R.Patel Petitioner

Mr.S.Tripathi Advocate for the Petitioner [s]  
Mr.P.B.Sharma Versus

Union of India & Ors. Respondent

Mr.M.S.Rao Advocate for the Respondent [s]





Mr.P.F.Adhvaryu

**CORAM**

The Hon'ble Mr. A.S.Sanghavi : Member (J)

The Hon'ble Mr. M.P.Singh : Member (A)

**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 ? 

Mr. Kanubhai Ranchhodbhai  
Conservator of Forests,  
Social Forestry,  
Bharuch.

.....

Applicant

( Advocate : Mr. S. Tripathy, Mr. P. B. Sharma )

VERSUS

1. UNION of India  
Ministry of Forest & Environment,  
C.G.O. Complex, Lodhi Road,  
New Delhi.
2. The State of Gujarat,  
Notice to be served through the  
Secretary to the Govt. of Gujarat,  
Forest & Environment Deptt.  
Sachivalaya, Gandhinagar.
3. The Principal Chief Conservator of  
Forest, State of Gujarat,  
1st floor, 40- Annexe Building,  
Raopura, Vadodara.
4. Shri P. A. Malwade,  
Addl. Chief Conservator of Forests.  
State of Gujarat, 1st floor,  
40, Annexe Building, Raopura,  
Vadodara. .... Respondents

( Advocate : Mr. M. S. Rao for resp. NO:1,  
Mr. P. F. Adhvaryu

ORAL ORDER

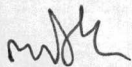
O.A./98/93


DATE : 21.6.2000

Per : Hon'ble Shri A. S. Sanghavi : Member (J)

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Neither the applicant nor his advocate are present. They have not ~~been~~ remained present since last many adjournments. It appears that they are not interested to proceed with the matter. O.A is therefore dismissed for default. No order as to costs.

  
( M.P.Singh )  
Member (A)

  
( A. S.Sanghavi )  
Member (J)

nkk

AHMEDABAD BENCH

Application No. 0A/98/93 of 19

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: P 17/06/93.

Countersigned : R.S. Christian

*Phaloni*  
*19-7-93*

Section officer/Court officer.

Signature of the  
Dealing Assistant.

*Phaloni*

