

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : CUTTACK BENCH

AT CUTTACK

O.A. No. 918/96

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Dt. of Decision : 27th March 97

L. Laxman Rao

.. Applicant.

vs

1. The Union of India, Rep. through the Secretary, Railway Board, Railway Bhavan, New Delhi.
2. The General Manager, SE Rly, Garden Reach, Calcutta-47 West Bengal.
3. The Divl. Rly. Manager, SE Rly, Chakradharpur, Singhbhum, Bihar
4. The Divl. Personnel Officer, Chakradharpur, SE Rly, Chakradharpur, Singhbhum, Bihar,
5. The Divl. Medical Officer, At/P.O. Chakradharpur, Dist. Singhbhum, Bihar.

.. Respondents.

Counsel for the applicant : Mr. D.S. Misra

Counsel for the respondents :

CORAM:

THE HON'BLE SHRI N. SAHU : MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.))

Heard Mr. D.S. Misra, learned counsel for the applicant.

2. The point that arises for our consideration in this OA is whether this OA can be entertained in view of section 30(1) of the A.T. Act and in view of Rule 23 (ii) of CCS (CCA) Rules.

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3. The above point arises in the following circumstances.

The applicant while working as Ambulance Driver Gr-II was served with a minor penalty charge memo dated 4-9-95. The applicant submitted his explanation on 16-9-95. The charge memo is at Annexure-1 and the explanation of the applicant is at Annexure-2.

4. Considering the explanation offered by the applicant to the charge, respondent No.5 imposed the penalty as under:-

The applicant was directed to pay cost of 59½ ltrs. Diesel Oil at Rs.7.71 per litre i.e., the applicant was directed to pay Rs.459/- towards the mis-appropriation of the Diesel Oil and he was warned.

5. It is against this order the applicant has filed this OA. Admittedly, the order passed by R-5 is an appealable one. The applicant has not exhausted ^{all} the alternative remedies available to him.

6. During the course of arguments the learned counsel for ^{applicant} the ~~app~~ respondents relied upon the observations made by the Hon'ble Supreme Court ~~of~~ of India in the case of B.B.Gupta Vs. State of Haryana reported in AIR 1972 SC 2472. In para-16 of the judgement it is observed that if an order affects the employee financially, it must be passed after an objective ^{consideration} and assessment of all relevant facts and circumstances and after giving ~~the~~ him full opportunity to make out his case.

7. Section 20 (1) of the A.T. Act reads as follows:-

"A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances."

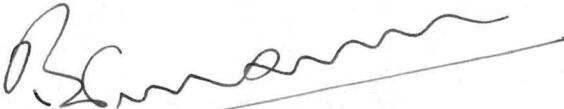
8. When the applicant has an alternative remedy we humbly feel that he must exhaust the said remedy before filing the OA.

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The Hon'ble Supreme Court of India in case of Mr. Venkateswaran
Vs. R.S. Wadhwani and Others reported in AIR 1961 SC 1506
(paras 8 to 10) have observed that when there is an alternative
remedies that must be exhausted by the applicant. The same view
was adopted by the State Administrative Tribunal, Karnataka,
in the case of M.N. Thippaiah Vs. Commissioner, Commercial
Taxes reported in 1990 KSLJ 1315.

9. Considering the ~~above~~ above legal position we humbly
feel that the applicant must exhaust all the remedies available
to him before approaching this Tribunal.

10. Therefore, we are of the view that this OA cannot be
entertained. Hence, the same is rejected at the stage of
admission. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)


(N.SAHU)
MEMBER(ADMN.)

Dated :

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