

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No. 6/85

Shri Dinkar Kundaji Avhad,
Chawl No.F/4, Upnagar,
Nasik - 422 006.

... Applicant

V/s.

The Manager,
Govt. of India Press,
Nasik.

... Respondent

Coram: Vice-Chairman B.C.Gadgil
Member J.G.Rajadhyaksha.

Appearance:

- 1) Shri H.H.Ukani,
Advocate
for the applicant.
- 2) Mr.S.R.Atre for Shri P.M.Pradhan
Advocate
for the respondent.

Tribunal's order: (Per Vice-Chairman Gadgil) Date:17-9-1986

This application can be decided on a short point and therefore detailed history of the application is not necessary to be discussed. Suffice it to say that in 1968 the applicant joined service with the Govt. of India Press, Nasik. Later on he was promoted to a higher post. On 16-8-1984 he was suspended as a criminal prosecution was filed against him. It was a criminal case No.50/1984 in the Court of the Chief Judicial Magistrate, Nashik. The charges levelled against the applicant were under section 420 read with sections 511 & 120 B, section 468, section 109 and section 471 read with section 120 B. In substance, the allegation was that the applicant preferred a false claim under the Leave Travel Concession Rules. The falsity came to the knowledge of the concerned authorities and in due course the criminal case ended in conviction on 23-4-85. The applicant has been sentenced to imprisonment of 3 years and to pay a fine of Rs.500/- in default imprisonment for 6 months. Such sentence was imposed on each of the three counts. On 24-10-1985 the applicant was dismissed

from service. This is said to be permissible under Rule 19(2)(1) of the Central Civil Services(Classification, Control and Appeal) Rules. It is this order of dismissal that is being challenged before us by filing this application on 22-11-1985.

The Respondent has filed his reply. However, we do not propose to go into the contentions for the following reasons :-

Section 20 of the Administrative Tribunals' Act 1985 provides that application to the Tribunal would not normally be permissible unless the applicant has availed of all the remedies available to him under the relevant service rules. It is not now in dispute that an appeal lies against the impugned dismissal order. Such an appeal has not however been preferred and it is for this reason we are not inclined to entertain the application. The application is, therefore, liable to be dismissed.

Mr.Ukani contended that the appeal if now filed would be barred by time and therefore urged that we should pass some orders that the appellate authority should condone the time lag in filing such appeal. In our opinion this course would not be proper. After all it will be for the appellate authority to decide as to whether the delay has to be condoned. Of course, the fact that the applicant has filed this present application within a month from the dismissal order too stands on which the applicant can apply for condoning the delay. The appellate authority will no doubt consider this aspect of the claim and would pass appropriate orders on the basis of that contention.

With these observations the application is dismissed.

No orders as to cost.

B.C. Gadgil
(B.C.GADGIL)
Vice-Chairman

17/11/85
J.G. Rajadhyaksha
(J.G.RAJADHYAKSHA)
Member

*Received a copy of
Judgement by me on 18/9/86
D.K. Ahluwalia
18/9/86
(Shri D K Ahluwalia)
Applicant*

*Received a copy of
Judgement by me
on 19/9/86
(D.K. Ahluwalia)
Applicant*

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Judgement by me
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Applicant*