

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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1987

T.A. No.

33

DATE OF DECISION 25.11.1987Shri B.M. Vibhute PetitionerShri M.B. Aurangabadkar Advocate for the Petitioner(s)

Versus

Union of India and others. RespondentShri V.G. Rege Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. B.C. Gadgil, Vice-Chairman (J),

The Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

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?

*B.C.*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Transferred Application No.33/87

Shri B.M. Vibhute,  
r/o R.B.2, 426 Railway Quarters,  
Dhond,  
District Pune.

...Applicant.

V/s

1. The Union of India,  
through the General Manager,  
South Central Railway,  
Secunderabad.
2. The Divisional Superintendent,  
South Central Railway,  
Solapur.
3. The Divisional Mechanical Engineer,  
South Central Railway,  
Solapur.
4. Shri S.A. Bari,  
Loco Inspector,  
Inquiry Officer,  
South Central Railway,  
Solapur.

...Respondents.

Coram: Hon'ble Vice-Chairman Shri B.C. Gadgil.  
Hon'ble Vice-Chairman Shri B.C. Mathur.

Appearances:

Shri M.B. Aurangabadkar  
Advocate for the applicant.

Shri V.G. Rege  
Counsel for the Respondents.

ORAL JUDGMENT

Date:25.11.87.

(Per Shri B.C. Gadgil, Hon'ble Vice.Chairman)

Regular Civil Suit No.653 of 1977 of the file of the Civil Judge, Senior Division, Solapur, is transferred to this Tribunal for decision.

2. In view of the following submissions made by the advocate for the applicant, it is not necessary to give all the details of the litigation. Suffice it to say that the applicant was before 1977 Driver 'C' working in the Central Railway Administration. A departmental

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enquiry was held against him and on 23.6.1977, the disciplinary authority found him guilty of misconduct and imposed a penalty of reversion as Fireman 'B' for a period of two years with cumulative effect. The applicant had filed the suit in question before this order was passed. However, later on he amended the suit challenging it.

3. Under the Department's rules the order in question is appealable. When we asked Mr. Aurangabadkar as to whether the applicant has filed an appeal, he frankly stated that the said appeal has not been filed. He then submitted that it would be in the interests of justice if the applicant is directed to file the appeal. According to him, the applicant may not be required to take any other proceeding if the appeal is allowed; otherwise the applicant would be entitled to challenge the appellate order if the appeal goes against him. This course is no doubt in the interest of the parties. However, the appeal, if filed now, would be barred by time. We have heard Mr. Rege on the question as to whether the appellate authority would decide the appeal on merits without raising the question of limitation. He, however, frankly told us that it would not be possible for him to make any such statement. But we feel that we should give a necessary direction about it. Hence, we pass the following order. The applicant is permitted to file the appeal to the appellate authority against the impugned order within two months from today. We direct that the appellate authority would admit and decide such an appeal on merits and not on the ground of limitation. To be more specific, the question of limitation would not come

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in the way of the applicant to agitate the merits of the appeal. It is needless to say that while deciding the appeal, the appellate authority would give reasonable opportunity to the applicant of being heard and would pass a speaking order. This is necessary in view of the Supreme Court's decision reported in 1986 SLR p.608. With these directions, this application is disposed of with no orders as to costs.



(B.C. MATHUR)  
Vice-Chairman



(B.C. GAGDIL)  
Vice-Chairman.