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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 118/87

Transfer ~~Application~~

DATE OF DECISION

2/3/93

M.P. Joseph

Petitioner

Applicant in person

Advocate for the Petitioners

Versus

Union of India

Respondent

Mr. P.M. Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri

Justice S.K. Dhaon, Vice Chairman

The Hon'ble Shri

Ms. Usha Savara, Member (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 ?

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V.C.

NS/

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY - 1

OA No. 118/87

M.P. Joseph

..Applicant

V/s

Union of India  
through Accountant General  
(A&E) Maharashtra-I  
Bombay

..Respondent

Coram: Hon. Shri Justice S.K.Dhaon, V.C.  
Hon. MS Usha Savara, Member(A)

Appearance:

Applicant  
present in person

Mr. P.M. Pradhan  
Counsel  
for the respondents

JUDGMENT:  
(Per: S.K.Dhaon, Vice Chairman)

DATED: 2/3/83

The applicant is employed in the Office of Accountant General (A&E) Maharashtra-I. On 21.10.1986 the Accounts Officer/Admn.I informed the applicant that the permission sought by him to publish an article on "IVth Pay Commission" in the Times of India could not be granted. On 10.11.1986 the Accounts Officer(Adm) again informed the applicant that his application cannot be granted vide Rule 8(2) of C.C.S.(Conduct) Rules 1964, as the article proposed to be published in the news paper contains criticism of Government. The applicant feels aggrieved. Hence this application.

2. The applicant has been heard in person. He challenges the validity of Rule 8(2) of the C.C.S.(Conduct) Rules 1964, which inter alia provides that no Government servant shall, except with

the previous sanction of the Government, or of the prescribed authority, or except in the bona fide discharge of his duties contribute an article or write a letter to the news paper or periodical, either in his own name or anonymously or pseudonymously or in the name of any other person. Rule 9 provides that no Government servant shall, in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion which has <sup>the</sup> effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government.

3. The only argument advanced is <sup>that</sup> Rules 8(2) and 9 infringe the freedom of speech and expression guaranteed to the applicant under Article 19(1)(a) of the Constitution and they are not saved by the contents of Article 19(2). Thus, the applicant is seeking the enforcement of the Fundamental Rights given to him under Article 19.

4. This Tribunal is a substitute of the High Court in service matters. It is true that the impugned rules relate to service matter. But this Tribunal's power is circumscribed to the enforcement of Articles 14 and 16 in relation to service matters. The enforcement of Fundamental Rights as guaranteed under Article 19 is not within the ambit of this Tribunal. The applicant's remedy, therefore, is <sup>to</sup> either prefer an application under Article 32 before the Supreme Court or go to the High Court concerned under Article 226 of the constitution.

5. We are not in a position to grant any relief to the applicant. The application is dismissed, but without any order as to costs.

*U. Savara*  
(Ms. Usha Savara)  
Member (A)

*S. K. Dhaon*  
(S.K. Dhaon)  
Vice Chairman