

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH NEW BOMBAY

STAMP No. 615/87

O.A. 640/87.

Mr. Bajarang Sopan Bawdhankar  
Near Ganesh Society,  
Gopalwadi Road, Dhond,  
Dist. Pune.

..... Applicant

v/s.

1. The Union of India.
2. The General Manager,  
Central Railway,  
V.T. Bombay.
3. Asstt. Mechanical Engineer(P),  
SUR, Central Railway,  
Sholapur.

Council Hon'ble Member (A) J G Rajadhyaksha  
Hon'ble Member (J) M B Mujumdar

ORAL JUDGMENT

Dated : 29.9.1987

(PER: M B Mujumdar, Member(J))

Heard Mr. M K Mhalgi, the learned advocate for the applicant.

After considering all the facts we are constrained to reject this application summarily as it is premature.

It is not necessary to state all the facts prior to memorandum dated 1/8 September, 1986 received by the applicant from the Assistant Mechanical Engineer(P) Solapur. The memo reads as follows :

"Shri Bajarang Sopan Cleaner Boy LF DD is hereby informed that on careful consideration of the circumstances of the case in which he was convicted in the Court of JMFC Nasik Road and undergone six months imprisonment on and from 1.12.84, the undersigned considers that his conduct which has led to his conviction is such as to render his further retention in public service undesirable. The undersigned has, therefore, provisionally come to the conclusion that Shri Bajarang Sopan Cleaner Boy LF DD is not a fit person to be retained in service and so the undersigned in exercise of the powers conferred by rule (14(i) of the Railway Servants (Discipline and appeal) Rules, 1968 proposed to impose on him the penalty of removal from services.

Shri Bajarang Sopan is hereby given an opportunity of making representation on the penalty proposed. Any representation which he may wish to make on the penalty proposed will be considered by the undersigned before passing final orders. Such representation, if any, should be made within not later than 10 days from the date of receipt of this memorandum by Shri Bajarang Sopan Cleaner Boy LF DD.

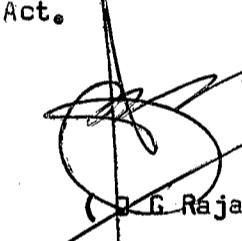
If no representation is received from him within the stipulated time, it will be presumed that he has no representation to make and final orders will be liable to be passed against him ex parte.

The receipt of this memorandum should be acknowledged by Shri Bajarang Sopan Cleaner Boy LF DD.

3. The applicant has submitted the representation dated 14.9.1987 as required by the second paragraph of the memorandum. According to the applicant no further enquiry is held by the authorities so far. However, apprehending that his services would be terminated at any time hereafter, he has filed the present application requesting that the respondents may be restrained from passing any dismissal or similar order in pursuance of the memorandum quoted above.
4. Section 20(1) of the Administrative Tribunals Act, 1985 specifically lays down that the 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.
5. It is undisputed that no final order is passed against the applicant imposing any penalty. His mere fear that the authorities will issue dismissal or similar order will not entitle us to admit this application. It is likely that the authorities may not pass any order as apprehended by the applicant. Even if an adverse order is passed by the Disciplinary Authority, the applicant can challenge it by preferring an appeal to the Appellate Authority. Hence we are of the opinion that the application preferred by the applicant is premature.
6. Mr. Mhalgi, the learned advocate for the applicant, submitted that the entire jurisdiction of the High Court and Civil Court is taken away and the same is vested in this Tribunal, so far as grievances of the Central Government employees are concerned. Though this is true, we are bound by the provisions of the Act and in view of section 20(1) of the Act, we are not inclined to admit this application.

7. The main thrust of the argument of Mr. Mhalgi was that the applicant is not at all convicted by the Judicial Magistrate First Class (JMFC), Nasik Road for any offence, but he was merely sentenced to undergo imprisonment for not paying arrears of maintenance awarded by the JMFC to his wife and children. Hence according to Mr. Mhalgi, the Memo and the charge which are based on illegal assumptions are liable to be quashed. The applicant has produced a copy of the judgment of the JMFC in Miscellaneous Application No. 199/1983. It is clear from it that the applicant was sentenced to imprisonment for six months for not paying maintenance amount to his wife and two children. He was to be released earlier on payment of arrears. Hence it is clear that the sentence was not imposed upon the applicant ~~as~~ <sup>for</sup> conviction for some offence. But this point can be urged by the applicant before the Enquiry Officer or the Disciplinary Authority. Simply because a law point is involved, it will not enable us to admit this application.

8. We, therefore, reject the application summarily under section 19(3) of the Administrative Tribunals Act.

  
( D. G. Rajadhyaksha )

Member (A)

  
( M. B. Mujumdar )

Member (J)