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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW BOMBAY~~

NEW BOMBAY BENCH

St.

~~C.A.~~ No. 599/88

198

~~T.A. NO.~~

DATE OF DECISION 30.8.1988

Shri Prakash Chandra N.

Petitioner

Shri G.K.Masand

Advocate for the Petitioner(s)

Versus

Union of India and three others

Respondents

Shri A.L.Kasturey

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.Srinivasan, Member (A)

The Hon'ble Mr. M.B.Mujumdar, Member (J)

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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(4)

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

Stamp Application No. 599/88.

Shri Prakash Chandra N.

.. Applicant.

V/S

Western Railway, Bombay & others.

.. Respondents.

Coram: Hon'ble Member(A), P. Srinivasan.

Hon'ble Member(J), M.B. Mujumdar.

ORAL JUDGMENT :-

{Per:- Shri P. Srinivasan, Member(A)}

Date: 30.8.1988.

This application has come up before us today for continuation of interim stay. Shri G.K. Masand for the applicant and Shri A.L. Kasturey for the respondents have been heard. We find that the application itself can be disposed of on a short point. Disciplinary proceedings were initiated against the applicant and by order dated 10.6.1987, the Disciplinary Authority, namely, Divisional Commercial Superintendent (I) (DCS(I)), Western Railway, Bombay Division imposed on the applicant a minor penalty of stoppage of increment for two years. The applicant filed an appeal against this order to the Senior Divisional Commercial Superintendent (SDCS), Bombay Division, Western Railway. The SDCS set aside the orders of the Disciplinary Authority and enhanced the penalty to one of reduction to a lower rank by two orders dated 8.9.1987 and 15.10.1987. Thereafter, the Divisional Railway Manager (DRM), Western Railway, Bombay Division suo moto initiated review proceedings under Rules 25 of the Railway Servants (Discipline and Appeal) Rules 1968 and passed an order dated 12.8.1988 enhancing the punishment on the applicant to one of ~~the~~ removal.

P. Srinivasan

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from service. This application is directed against the order of the SDCS dated 15.10.1987 and the order of the DRM dated 12.8.1988.

2. Shri Masand contended that the impugned orders are arbitrary and the major punishment is imposed on the applicant without giving the applicant an opportunity of being heard. Shri Kasturey submitted that the applicant has a right to appeal against the order of DRM to Chief Commercial Superintendent, Western Railways and without exhausting that avenue he cannot come to this Tribunal.

3. Shri Masand submitted that he is prepared to file an appeal but he is apprehensive that if this application is disposed of with a direction to him to file the appeal, the impugned order of the DRM will be made effective and the applicant will stand removed from service. In the circumstances of this case we feel that the operation of the order of the DRM removing from service should be stayed till the applicant files an appeal to the CCS and the latter disposes of that application. Shri Kasturey submitted that the applicant was avoiding the service of the order passed by the DRM. Shri Masand, very fairly in our view, suggested that since the applicant is now aware of the said order, it may be deemed to have been served on him today. We accept his suggestion.

4. In the result, we pass the following orders:-


- i) The applicant will file an appeal against the order of the DRM within 15 days from today to the CCS, Western Railway.
- ii) The CCS, Western Railway will dispose of the appeal filed by the applicant as expeditiously as possible but not beyond three months from today.
- iii) The operation of the DRM's order removing the applicant from service is stayed till the disposal

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of the appeal by the CCS and, in the event ~~of~~ of the order ~~in~~ in appeal going against the applicant, for a further period of 15 days after service of that order.

- iv) The above arrangement is subject to the applicant strictly following the time schedule set out above and cooperating with the authorities in getting the appeal disposed of early.

The application is disposed of on the above terms but in the circumstances of this case, parties to bear their own costs.

  
( P. SRINIVASAN )  
MEMBER(A).

  
( M.B. MUJUMDAR )  
MEMBER(J).