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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCH

Stamp Application No. 497/88

O.A. No.

198

T.A. No.

DATE OF DECISION 12.7.1988

Shri D.S.Modi

Petitioner

Shri T.Ramamoorthy

Advocate for the Petitioner(s)

Versus

Union of India & Anr.

Respondent

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? *Yes*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

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

Stamp Application No.497/88.

Shri D.S.Modi,
C/o. Mr.T.R.Talpade,
Advocate, High Court,
Narottam Niwas,
308, Jawaji Dadaji Road,
Nanachowk, Bombay-400 007.

... Applicant

V/s.

1. The Union of India through
The General Manager,
Western Railway, Churchgate,
Bombay.400 020.
2. Chief Commercial Superintendent(Gen),
Western Railway, H.Q. Office,
Churchgate,
Bombay.400 020.

... Respondents

Coram: Hon'ble Member(A), Shri P.Srinivasan,
Hon'ble Member(J), Shri M.B.Mujumdar.

Appearances:

Shri T.Ramamoorthy, advocate
for the applicant.
Shri A.L.Kasturey, advocate
for the respondents.

Oral Judgment:

(Per Shri P.Srinivasan, Member(A))

Dated: 12.7.1988

This application has come before us for admission with notice to the respondents. Shri Ramamoorthy appears for the applicant and Shri A.L.Kasturey for the respondents. This application directed against an order imposing penalty of removal from service on the applicant. This order has been challenged on a number of grounds. However, no appeal has been filed against this order and therefore all the remedies available under the rules have not been exhausted by the applicant.. Shri Ramamoorthy expressed an apprehension

P. Srinivasan

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that if he files an appeal the appellate authority may not grant him stay of the order of the Disciplinary Authority and so the applicant may have to go out of employment with immediate effect. He prays that if this Tribunal grants a stay of the impugned order till the disposal of the appeal by the Appellate Authority, he will file an appeal to the Appellate Authority.

2. Shri A.L.Kasturey submits that this application should be dismissed in limine because the applicant has not exhausted the departmental remedies.

3. After considering the arguments of counsels on both sides we pass the following orders:

ORDER

1. The applicant will file an appeal against the impugned order at Ex.'E'. Shri Ramamoorthy raised the question as to who the proper Appellate Authority should be, the CCS(CCG) referred to in Ex.'E' or the General Manager. By way of abundant caution he may address appeals to both the authorities explaining why he is doing so.

2. The operation of the impugned order is stayed till disposal of the appeal by the ~~appellate~~ ^{appropriate appellate} authority and in the event of the appellate authority deciding against the applicant for a further period of two weeks thereafter. We however, make it clear that if the applicant does not file an appeal within the period of limitation allowed for this purpose this stay order will cease to operate.

3. The applicant will obviously be at liberty to come back to this Tribunal if he is aggrieved with the order of the appellate authority.

4. The application is disposed of at the admission stage itself on the above terms.

P. L. V
(P. SRINIVASAN)
MEMBER (A)

M. B. MUJUMDAR
MEMBER (J).