

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

Original Application No.57/86

V.D.Puranik,
T.T.C.Quarters,
Block No.1, Room No.1,
Opposite Water Supply,
Nasik Road - 422 101.

... Applicant

V/s.

1. Union of India through
The Secretary to the Govt. of India,
Ministry of Finance,
Department of Economic Affairs,
New Delhi - 110 001.

2. General Manager,
India Security Press,
Nasik Road - 422 101. ... Respondents

Coram: Hon'ble Member(A)J.G.Rajadhyaksha
Hon'ble Member(J)M.B.Mujumdar

Appearance:

1. Shri T.K.Gupte
Advocate for the
Applicant.
2. Shri S.R.Atre, Advocate
(for Shri P.M.Pradhan)
for Respondents.

JUDGMENT:

Date: 25-11-1986

(Per J.G.Rajadhyaksha, Member(A))

The applicant, an employee of the India Security Press Hospital, has proceeded against the impugned penalties imposed upon him after departmental inquiry. Those penalties consisted of (a) reversion from the post of Asstt.Store Keeper to that of Pharmacist; (b) reduction in pay to the initial scale of Pharmacist; and (c) withholding of increments in that scale. The applicant challenged the impugned orders before this Tribunal by his application dt. 24th February, 1986. We have heard Shri T.K.Gupte for the applicant and Shri S.R.Atre(for Shri P.M.Pradhan)for the Respondents.

2. We do not propose to go into the merits of the contentions raised by the applicant at this stage which inter-alia includes procedural lapses in the departmental inquiry and passing of orders by authorities not competent to pass them. Similarly, the applicant preferred an appeal to the Govt. of India on 10th April, 1985 and it had not been decided till the filing of this application. It is for this reason that the applicant moved this Tribunal.

3. We are inclined to take the view that the applicant's remedy of getting an appellate order has not yet been exhausted. It is true that Section 20(2)(b) enables the applicant to come to the Tribunal in case the appeal filed by him has not been finally decided within a period of six months. Therefore, strictly speaking there is nothing wrong with the application on that ground.

4. At the same time, we cannot ignore the provisions of Section 19(4) which lead us to the conclusion that the appellate authority will treat the appeal as abated unless and until we give specific direction for its disposal under this particular section. Mr. Atre confirms that this is so inasmuch as the department has informed that the matter being sub judice, the appeal could not be proceeded with.

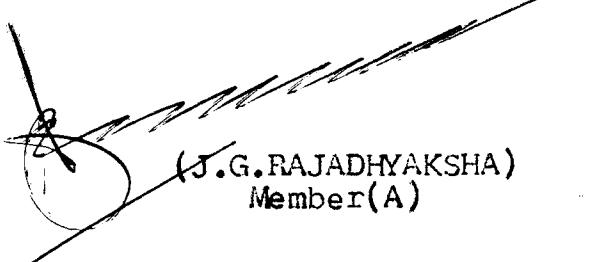
5. We, therefore, propose to issue directions that the appeal which is pending with the Govt. of India should be disposed of within a period of three months from the date of this order. It also, of course, means that in case the appellate order is adverse to the applicant he will be at liberty to have further remedial measures as he may be advised including a fresh application to the Tribunal.

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6. While giving this direction we would also bring to the notice of the appellate authority the law laid down by the Supreme Court in the case of Ramchander V/s. Union of India reported in 1986(2) Service Law Reporter, Page 608. There are important considerations enunciated in that ruling. Firstly, the appellate authority must give a personal hearing to the appellant; secondly they must consider all points raised in the appeal memo; and thirdly, they must issue a reasoned and speaking order in appeal. Any deviation from this rule would vitiate the appellate order.

7. In the result we dispose of this application with the direction to the appellate authority viz. The Govt. of India, Ministry of Finance that the appeal filed by the applicant dt. 10-4-85 shall be disposed of within a period of 3 months from the date of this order. We further direct that while considering and deciding the appeal, the appellate authority shall follow the law laid down by the Supreme Court in the case of Ramchander V/s. Union of India as discussed earlier in this order.

We pass no order as to cost.


(J.G. RAJADHYAKSHA)
Member(A)


(M.B. MUKUNDAR)
Member(J)