

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

TRANSFERRED APPLICATION NO.313/86

Mr.V.S.Kedari
C/o. Sister Kedari,
Ordnance Factory Hospital,
Bhusaval - 425 203

Applicant
(Plaintiff)

V/s

- 1) The Union of India
through the General Manager,
Central Railway,
Bombay V.T.
- 2) The Divisional Railway Manager,
Central Railway,
Bhusaval.

Respondents.

Coram: Hon'ble Vice-chairman B.C.Gadgil

Hon'ble Member (A) J.G.Rajadhyaksha

Appearance:

1. The applicant in person.
2. Mr.S.R.Atre, Advocate
for the Respondents.

ORAL JUDGEMENT

Dated: 16.04.1987.

(Per: B.C.Gadgil, Vice-Chairman)

Regular Civil Suit No.59/84 of the file of the Civil Judge, Junior Division, Bhusaval, is transferred to this Tribunal for decision.

2. The applicant (Original Plaintiff) was working as Assistant Catering Manager at Bhusaval. By way of penalty he has been removed from service with effect from 29.4.1981. It appears that the said order was preceded by a departmental enquiry held by the Enquiry Officer and thereafter, the Disciplinary Authority has passed the removal order. The applicant has preferred an appeal on 30.1.1982 to the General Manager. The said appeal has been dismissed and the dismissal order was communicated by letter dated 17 June 1983. It is this removal from service that is challenged before

contd...2

this Tribunal.

3. The applicant has raised a number of contentions in the plaint that was filed in the Civil Court. However, it is not necessary for us to consider those contentions in view of the following discussions.

4. At the time of the hearing of this application, the concerned file of the Departmental Enquiry was made available to us for our perusal. That file contains the above mentioned communication dated 17.6.1983 about the dismissal of the applicant's appeal. The file does not give any indication that the applicant was personally heard by the appellate authority. Similarly, the Appellate Order is not a speaking order. These two things are necessary in view of the decision of the Supreme Court in the case of Ram Chander V. Union of India reported in 1986(2) SLR 608. The Supreme Court had remanded the matter to the Appellate Authority as there were above two deficiencies. In our opinion, it would be in the fitness of things to follow the same procedure by remanding the appeal to the Appellate Authority. The file mentioned above has been returned to Mr. Atre after perusing the same. Hence we pass the following order :

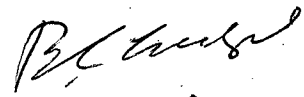
ORDER


- 1) The application is partly allowed.
- 2) The order of the General Manager dismissing the applicant's appeal is set aside and the said appeal dated 30.1.1982 is remanded to the Appellate Authority (General Manager) for disposal according to Law. To be more specific, the Appellate Authority should give an opportunity to the applicant of

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of being heard and the Appellate Order should be a speaking order dealing with all the points that have been raised in the appeal memo. Of course, it is not necessary to state that the Appellate Authority can decide the appeal ex-parte if the applicant chooses to remain absent even after notice is served on him. The Appellate Authority is directed to decide the appeal expeditiously say within four months from this date.

3) Parties to bear their own costs.


(B.C.GADGIL)
VICE-CHAIRMAN


(J.G.RAJADHYAKSHA)
MEMBER(A)