

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~
NEW BOMBAY BENCH

St. Application No. 876/88

~~O.A. No.~~
~~T.A. No.~~

198

DATE OF DECISION 1.3.1989

Shri Ramakant D. Mahale, Petitioner

Shri D.V. Gangal, Advocate for the Petitioner(s)

Versus

Union of India & Another, Respondent

Shri S.R. Atre (for Mr. P.M. Pradhan) Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. M.Y. Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
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? *No*

(4)

Judgement - dt- 1-8-89
Served on Applicant of
R. Nott² on 1-8-89
10/1/89

(B)

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

Stamp Application No.876/88

Shri Ramakant D.Mahale,
Assistant Inspector Control,
Currency Note Press,
Nasik Road,
Nasik-422 101.

.. Applicant

V/s.

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

2. The General Manager,
Currency Note Press,
Nasik Road-422 101.

.. Respondents.

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

Appearance:

1. Shri D.V.Gangal,
Advocate for the
applicant.
2. Shri S.R.Atre(for
Mr.P.M.Pradhan)
Advocate for the
Respondents.

ORAL JUDGMENT:-

Dated: 1.3.1989

[Per: Shri M.B.Mujumdar, Member(J)]

This application is filed under Section 19 of the Administrative Tribunals Act, 1985. By an order dated 1.2.1989, we had directed to issue notices to the respondents regarding admission. We had also directed the respondents to clarify as to what orders, if any, are passed on the revision application filed by the applicant on 10.3.1988.

Contd...2/-

(5)

2. The relevant facts for the purpose of this judgment are as these: The applicant is working as Assistant Inspector Control in the Currency Note Press, at Nasik Road. On 27.12.1983 a statement containing four charges was served on the applicant. As the applicant denied the charges, departmental inquiry was held against him. The Inquiry Officer(IO) held that charges Nos. 1, 2 and 4 and second part of charge No.3 were proved. The Disciplinary Authority(DA) i.e. General Manager by the order dated 30.9.1985 agreed with the findings of the IO and imposed the penalty of 'Censure' on the applicant. The applicant did not prefer any appeal against that order.

3. On 3.9.1987 the applicant had filed O.A. No.575 of 1987 challenging mainly the order by which the penalty of Censure was imposed on him. After hearing learned advocate for the applicant we rejected that application summarily. The applicant has produced a copy of that judgment at page 24 which shows that the application was rejected on three grounds (i) The application was barred by limitation, (ii) application was filed without exhausting the departmental remedies available to him, and (iii) the order was not defective in any respect.

4. The applicant did not approach the Supreme Court against the above order of this Tribunal. However, on 10.3.1988 he submitted a revision application to the Secretary to the Government of India, Ministry of Finance

Contd...3/-

✓
✓
h/

Department of Economic Affairs, New Delhi, praying for justice by setting aside the order of punishment dated 30.9.1985. At the end of this revision application he has pointed out that the order is void.

5. On 21.12.1988, the applicant has filed the present application. He has made three prayers in the application and these are as follows:-

- (i) Hold and declare that the respondents must decide his Revision Application as expeditiously as possible and in any case not later than one month.
- (ii) Direct the respondents to decide the Revision Application as expeditiously as possible and within one month.
- (iii) Grant the application with cost.

6. We have heard Shri D.V.Gangal, learned advocate for the applicant and Shri S.R.Atre(for Shri P.M.Pradhan) learned advocate for the respondents.

7. Shri Gangal relied on Rule 29 of Central Civil Services Classification Control and Appeal Rules (CCS CCA) 1965. The Rule reads as under:-

"Revision

29(1) Notwithstanding anything contained in these rules:

- (i) the President or
- (ii) the Comptroller and Auditor-General, in the case of a Government servant serving in the Indian Audit and Accounts Department,
- (iii) or
- (iii) ~~the Member(Administration)~~ Posts and Telegraphs Board, in the case of a Government servant serving in or under the Posts and Telegraphs Board, or
- (iv) the head of a department directed under the the Central Government, in the case of a Government servant serving in a department or office (not being the Secretariat or the Posts and Telegraphs Board), under the control of such head of a department, or

- (2)
- (v) the appellate authority, within six months of the date of the order proposed to be, or,
 - (vi) any other authority specified in this behalf by the President by a general or special order, and within such time as may be prescribed in such general or special order,

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and any order made under these rules or under the rules repealed by Rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the Commission where such consultation is necessary, and may-

- (a) confirm, modify or set aside the order: or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed: or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 11 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 14 and except after consultation with the Commission where such consultation is necessary:

Provided further that no power of ~~(revision)~~ shall be exercised by the Comptroller and Auditor-General, ~~(the Member (Administration))~~, the Posts and Telegraphs Board or the head of department, as the case may be, unless-

- (i) the authority which made the order in appeal, or
- (ii) the authority to which an appeal would

8

lie, where no appeal has been preferred, is subordinate to him.

- (2) No proceeding for (revision) shall be commenced until after-
 - (i) the expiry of the period of limitation for an appeal, or
 - (ii) the disposal of the appeal, where any such appeal has been preferred.
- (3) An application for (revision) shall be dealt with in the same manner as if it were an appeal under these rules.

8. Mr.Gangal submitted that the applicant has preferred a revision petition to the Secretary of the department in which he is working and he is bound to decide the revision petition. Mr.Gangal submitted that the Secretary of the department falls under item (iv) of sub-rule(1) and no time limit as such is laid down in the rule for preferring a revision petition. Mr.Gangal especially relied on the words "may at any time, either on his or its own motion or otherwise" In sub-rule (1) Mr.Gangal also brought to our notice the provision of Rule 31 which says that save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

9. Mr.Gangal submitted that the applicant has come to this Tribunal with a simple prayer, namely, for directing the respondents to decide the Revision Petition as expeditiously as possible in any manner

the authority feels proper. But after considering the provision of Rule 29 and the facts of this case we do not think that this Tribunal can give direction to the Competent Authority to decide the Revision Application filed by the applicant.

10. As already pointed out, on 1.2.1989 we had directed the respondents to clarify as to what orders, if any, are passed on the Revision Application of the applicant preferred on 10.3.1988. Mr. Atre who appears for the respondents stated that he is instructed to inform this Tribunal that as the revision petition is filed after 2½ years of the orders, the authorities are not going to take cognizance of the revision petition and hence no order is passed on it.

11. As already pointed out, this Tribunal has rejected the previous Original Application of the applicant on three grounds. One of the grounds was that the order of penalty was not defective in any respect. Section 19(4) makes a provision which may be quoted with advantage here.

"(4) Where an application has been admitted by a Tribunal under sub-section(3), every proceedings under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules."

It is true that this provision will come into play when the application is admitted by the Tribunal. Hence this case may not fall squarely under this

Contd...7/-

13

provision. But if after the application is admitted under sub-section(3) of Section 19, every proceeding under the relevant service rules as to redressal of grievances in relation to the subject matter pending immediately before the admission is to abate and no appeal or representation in relation to such subject matter is to be entertained thereafter unless otherwise directed by the Tribunal, we fail to understand how a revision application can be entertained by the authorities after an application is rejected summarily by the Tribunal ^{not} ~~relying~~ on some technical ground such as the application being premature~~ly~~ but by holding that the order in question is not defective in any way.

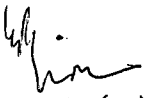
12. Mr.Gangal urged that the Competent Authority to whom revision petition is made may be directed to dispose it of one way or other. It is obvious that the applicant will have no grievance if the revision petition is allowed by the Competent Authority. But we do not know what he is going to do if it is rejected. Possibly he wants to come to this Tribunal by way of a fresh application under Section 19 of the Administrative Tribunals Act, 1985 and we are of the view that this application is filed with that ulterior motive.

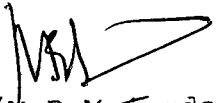
13. In result we find no merits whatsoever in the present application and hence rejected the

Contd...8/-

✓
2

same summarily. We further direct that the
applicant ^{shall} pay Rs. 100/- as cost to the respondents.
After this sentence was dictated, Mr. Gangal,
learned advocate for the applicant paid the cost
of Rs. 100/- to the respondents' advocate Mr.
S.R. Atre.


(M.Y. Priolkar)
Member(A)


(M.B. Mujumdar)
Member(J)