

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 309 OF 1999.

Date of Decision: 26.04.1999.

Smt. Nutan Vishwas Jathar, Applicant.

Shri A. R. Kini with
Shri J. D. Fernandes, Advocate for
Applicant.

Versus

Union Of India & 2 Others, Respondent(s)

Shri V. G. Rege, Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri. D. S. Bawej, Member (A).

(1) To be referred to the Reporter or not? NO

(2) Whether it needs to be circulated to other Benches of the Tribunal? NO

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 309 OF 1999.

Dated this Monday, the 26th day of April, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Smt. Nutan Vishwas Jathar,
W/o. Vishwas Bhausaheb Jathar

Residing at -

Flat No. H/3, Kirti Nagar
Co. OP Hsg. Society Limited,
Vadgaon Budruk, Pune - 411 041.

Last employed with
M/s. Central Water & Power
Research Station,
Khadakwasala, Pune - 411 024.

... Applicant

(By Advocate Shri A. R. Kini
with Shri J. D. Fernandes).

VERSUS

1. The Director & Disciplinary
Authority (Dr. B. U. Naik)
Govt. Of India,
Ministry of Water Resources
Central Water & Power Research
Station, P.O. Khadakwasala
Research Centre,
Pune - 411 024.

2. Shri P. B. Deolalikar,
Chief Research Officer &
Inquiry Officer, Govt. Of
India, Ministry of Water
Resources Central Water and
Power Research Station,
P.O. Khadakwasala Research
Station, Pune - 411 024.

3. Union Of India,
Ministry of Water Resources
through its Director,
C.W.P.R.S., Khadakwasala,
Research Station,
Pune - 411 024.

... Respondents.

(By Advocate Shri V. G. Rege)

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OPEN COURT ORDER

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

This is an application challenging the order of penalty passed by the Disciplinary Authority dated 27.01.1999. Shri V. G. Rege appears for the respondents and opposes admission. We have heard both counsels.

2. Under Section 20 of the Administrative Tribunals Act, the party has to exhaust statutory remedies and then he must approach this Tribunal. The impugned order is an appealable order under Rule 23(ii) of the C.C.S. (C.C.A) Rules, 1965 and, therefore, the applicant has to file an appeal before the Appellate Authority and in case any adverse order is passed, he can approach this Tribunal for judicial review under Section 19 of the Administrative Tribunals Act. The Learned Counsel for the applicant submitted that the case falls under Rule 22 of the C.C.S. (C.C.A) Rules and, therefore, no appeal lies against final disposal of a disciplinary proceedings. In our view, by a harmonious construction of Rule 22 and Rule 23, one can find out that Rule 22 pertains to ^{Appeal} interlocutory orders for which no ~~order~~ is provided, whereas, Rule 23 is against final orders for which appeal is provided. Since the Disciplinary Authority has passed the order of penalty, it falls under Rule 23, for which an appeal lies. Therefore, the present O.A. is not maintainable, since the applicant has not exhausted the statutory remedies as provided under Section 20 of the Administrative Tribunals Act.

3. In the result, the O.A. is disposed of at the admission stage as not maintainable with liberty to the applicant to prefer an appeal against the impugned order to the concerned Appellate Authority. Needless to say, if any adverse order is passed by the Appellate Authority, then the applicant can approach this Tribunal for judicial review. All grounds taken by the applicant on merits in the present O.A. are left open. No order as to costs.

for Appeal

Though the time is over, since the applicant has approached a wrong forum, we direct the Appellate Authority that in case the applicant files an appeal within four weeks from the date of receipt of a copy of this order, then the Appellate Authority shall dispose of the appeal on merits without going into the question of limitation.

D. S. Baweja
(D. S. BAWEJA)
MEMBER (A)

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.