

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 1092 of 1999.

Dated this Friday, the 29th day of September, 2000.

M. K. Bhalerao. Applicant.

In Person. Advocate for the applicant.

VERSUS

Union of India & Others. Respondents.

Shri Suresh Kumar. Advocate for Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library.


(B.N. BAHADUR)
MEMBER (A).

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 1025 of 1988

Dated this 25th day of September, 2000.

Applicant. M. K. Balsara.

Advocate for the
Applicant. Iu Person.

VERSUS

Respondent. Union of India & Others.

Advocate for
Respondent. Shri Gurupi Kumbh.

1. Hon. Shri B. N. Balsara, Member (A).
2. Hon. Shri S. L. Jain, Member (C).

To be referred to the Referee or not ? (i)

Whether if needs to be circulated to other Benches
of the Tribunal ? (ii)

Reply. (iii)

(B.N. BALSARA)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1092 of 1999.

Dated this Friday, the 29th day of September, 2000,

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).
Hon'ble Shri S. L. Jain, Member (J).

M. K. Bhalerao,
Station Superintendent,
R/o. Railway Quarters,
Chitali, Tal. Shrirampur,
Dist. Ahmednagar.

... *Applicant.*

(In Person).

VERSUS

1. Union of India through
The General Manager,
Central Railway,
Mumbai C.S.T. 400 001.
2. Divisional Railway Manager,
Central Railway,
Solapur.
3. Chief Operating Superintendent,
Central Railway,
Mumbai C.S.T. 400 001. ... *Respondents.*

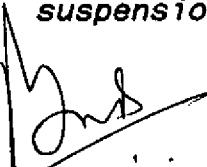
(By Advocate Shri Suresh Kumar).

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

We have heard the Applicant in this case and the Learned Counsel Shri Suresh Kumar for the Respondents.

2. The prayer of the Applicant is that the period of suspension should be treated as duty period and not as leave due. The facts are in a short compass. An enquiry was ordered against the applicant, and punishment has been imposed vide order dated 22.08.1997 (page 5). In the same order, it has been stated that the suspension period from 21.03.1992 to 17.08.1992 should be



...2

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 103 of 1991

Dated this Friday, the 25th day of September, 2000,

Complainant : Hon'ble Shri B. N. Bapnaur, Member (A).

Hon'ble Shri S. L. Jain, Member (L).

M. K. Bapnaur,
Station Superintendent,
R/o. Rajjwya Qasabha,
Chittisji, Tal. Shrivardhan,
Dist. Ahmednagar.

(In Person).

VERSUS

Union of India, Plaintiff,
The General Manager,
Central Rajjwya
Mumpasi C.S.T. 400 001.

Divisional Rajjwya Manager,
Central Rajjwya
Sohabur.

Chief Operating Superintendent,
Central Rajjwya
Mumpasi C.S.T. 400 001.

(By Advocate Shri Surlesh Kumar).

OPEN COURT ORDER

PER : Shri B. N. Bapnaur, Member (A).

We have heard the Appellant in this case and the Learned
Counsel Shri Surlesh Kumar for the Respondents.

1. The Director of the Appellant is that the period of
suspension should be released as duty period and not as leave due.
The facts are in a short compass. An employee was ordered against
the appellant and punishment was imposed in order that
the suspension period from 11.03.1993 to 22.08.1993 should be
8...

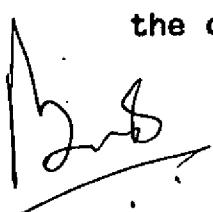
treated as leave due. The Applicant has made representations on 26.09.1997 and on subsequent dates, but no reply has been received by him. The main ground taken by the Applicant today before us is that as per Railway Board Order No. E (D & A) 86RG6-19 dated 21.03.1986, S1. No. (d) (iii), any suspension after which a minor penalty has been imposed, should be treated as duty. Para d (iii) of the said Railway Board Order dated 21.03.1986 reads as below :

"(d) (iii) In a disciplinary case while under suspension, if a railway servant after a disciplinary enquiry is awarded a minor penalty only, the suspension orders issued earlier cannot be taken as justified and so the employee may be paid later full pay and allowances, as admissible had he not been suspended."

However, the Learned Counsel for the Respondents points out with reference to the Rule 18 F of the Railway Servants (Discipline & Appeal) Rules, 1968, that the Applicant should have gone up in Appeal first. It is seen that Rule 18 (F) specifically provides for an Appeal against an order determining pay & allowance for the period of suspension.

3. The Applicant really should have gone in appeal. In the facts and circumstances of the case and the rule position pointed out, we consider it appropriate in the interest of justice to dispose of this O.A. with the following orders/directions :

- (a) The Applicant is at liberty to file an Appeal under the aforesaid Rule 18 (F) within a period of six weeks from today (to the Competent Authority above the D.O.M., who passed the order of penalty).
- (b) If such an appeal is made within the above period, the competent authority shall consider it. He shall also



gratified as leave due. The Applicant has made a representation to the Court on 26.08.2019 and on subsequent dates, put on record has been received by him. The main demand taken by the Applicant today before us is to grant as per Rajiawali Board Order No. E (D & A) 898C-19 dated 21.08.1988, sl. No. (a) (iii), sl. No. (b) (iii) of the said Rajiawali Board Order dated after which a minor benefit has been imposed, should be granted as per the said Rajiawali Board Order dated 21.08.1988.

21.08.1988 reads as below :

"(a) (iii) In a disciplinary case where under suspension, if a Rajiawali servant after a disciplinary enquiry is awarded a minor benefit only, the suspension order cannot be taken as tantamount to the empoyee may be paid after full pay and allowance, as damages for the loss of pay.

However, the Learned Counsel for the Respondents points out with reference to the Rule 18 of the Rajiawali Service (Discipline & Appeal) Rules, 1988, that the Applicant should have gone up in Appeal tiller. If so seen that Rule 18 (F) specifically provides for an Appeal against an order determining pay & allowance for the benefit of suspension.

3. The Applicant has also gone up in Appeal. In the case and circumstances of the case and the rule before him pointed out, we consider if application in the interest of justice to dispose of this O.A. with the following orders/directions :

(a) The Applicant is at liberty to file an Appeal under the aforesaid Rule 18 (F) within a period of six weeks from today (to the Competent Authority above the D.O.M., who assessed the order of benefit).

(b) If such an appeal is made within the period, the competent authority shall consider it. He shall also

3...

consider waiving of the delay considering the fact that a representation has indeed been made and that this Tribunal was approached. The competent authority shall take a decision on the Appeal, on merits and in accordance with the rules, within a period of three months from the date of receipt of these orders. The Applicant shall be informed of the decision taken.

(c) The O.A. is disposed of accordingly with no order as to costs.

S. L. JAIN
(S. L. JAIN)

MEMBER (J)

B. N. BAHADUR
(B. N. BAHADUR)

MEMBER (A).

OS*