

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).

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M. K. Bhalerao,
Station Superintendent,
R/o. Railway Quaters,
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).

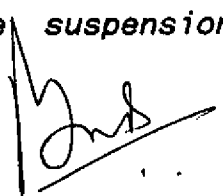
OPEN COURT ORDER

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

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Respondents. ...

(By Advocate Shri Suresh Kumar).

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2...

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, Sl. 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 :

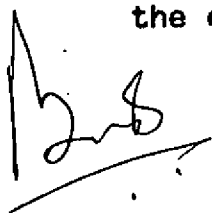
"(d) (iii) In a disciplinary case while under suspension, if a railway servant after a disciplinary enquiry is awarded a minor penalty only, the suspension orders issued earlier cannot be taken as justified and so the employee may be paid later full pay and allowances, as admissible had he not been suspended."

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



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as duty. Para d (iii) of the said Railway Board Order dated after which a minor penalty has been imposed, should be treated 8896-19 dated 21.03.1986, Sl. No. (b) (iii), any suspension before us is that as per Railway Board Order No. E (D & A) received by him. The main ground taken by the Applicant today on 26.09.1987 and on subsequent dates, but no reply has been treated as leave due. The Applicant has made a representations

"(b) (iii) In a disciplinary case while under suspension, if a railway servant after 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. " "He not been suspended."

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

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. Bāhadur

(B. N. BĀHADUR)

MEMBER (A).

OS*