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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 802/90
~~XXXXXX~~

198

DATE OF DECISION 14-3-1991.

Shri P.V. Kulkarni Petitioner

Shri E.K. Thomas Advocate for the Petitioner (s)

Versus

General Manager, Bombay V.T. Respondent

Shri V.G. Raga. Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. P.S. CHAUDHURI, MEMBER(A)

The Hon'ble Mr. T.C. REDDY, MEMBER(J).

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?



(P.S. CHAUDHURI)
MEMBER(A).

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

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Original Application No.802/90

Shri P.V.Kulkarni
Bombay

...

Applicant

vs

General Manager,
Central Railway,
Bombay V.T.

...

Respondent

Coram: Hon'ble Mr. P.S.Chaudhuri, Member(A)

Hon'ble Mr. T.C.Reddy, Member(J)

Appearances:

Mr. E.K.Thomas
for the applicant

Dated: 14-3-91

Mr. V.G.Rege for the
respondents.

Oral Judgement

(Per: Mr. P.S.Chaudhuri, Member(A))

This application under Section 19 of the Administrative Tribunals Act, 1985 was filed on 14.11.1990. In it the applicant, who is a retired Senior Stores Officer of Central Railway, is challenging the undue prolongation of disciplinary proceedings instituted against him and connected and consequential reliefs.

2. We have perused the record and have today heard Mr. E.K.Thomas learned counsel for the applicant and Mr. V.G.Rege learned counsel for the respondents.

3. Mr. Thomas' first submission is that the memorandum of charges dated 28-11-1988 deserved to be set aside as there had been undue delay in its issue. He cited the judgement

of the Guj^arat^a High Court in Mohan^abhai Dungarbhai Parmar v. Y.B.Zala and another -1980 SLJ # 477 - in this regard. But we find that case quite different from the present one. In that case disciplinary proceedings were initiated against a Police Constable on the allegation of his absence from the morning parade on one occasion and at the time of taking drill call on some other occasion. In that case there was a delay^a of one and half years in initiating the proceedings. That is not at all the case in the present application. In it the charges relate to the period 31.12.1987 to 31.8.1988 and the memorandum of charges was issued barely three months thereafter, viz. on 28.11.1988. We^{are}/therefore unable to hold that there has been any undue delay in the initiation of the disciplinary proceedings.

4. Mr. Thomas' second submission was that the authority who had issued the chargesheet, viz. General Manager, was not the competent authority. It is not disputed that the applicant was a Senior Scale Officer on the date on which the impugned memorandum of charges was issued to him. The Railway Servants (Discipline and Appeal) Rules, 1968 as amended upto 1.4.1987 (for short, the Rules) clearly shows that General Managers are competent to impose certain penalties in the case of ^{Group 'A'} Officers up to ~~Group 'A'~~ and including the Junior Administrative Grade. It is not disputed that the Junior Administrative Grade is a higher grade than Senior Scale in which the applicant was working at the time. Rule 2(C)(ii) of the Rules makes it clear that the authority competent to impose any of the prescribed penalties on any gazetted railway servant ~~and~~ can initiate major penalty proceedings against him.

It is not disputed that the applicant was a gazetted railway servant. In view of this position we see no merit in this submission also.

5. It is admitted that no order has yet been passed in this case in as much as the disciplinary proceedings initiated by the impugned memorandum of charges are still in progress.

No special circumstances have been urged before us to show why we should adjudicate this application which pertains to a matter in which there is yet no final order. In view of this position, we have no difficulty in holding that this application is premature.

6. Based on this discussion are of the view that this application is not a fit one for adjudication by us.

7. The application is accordingly summarily rejected under Section 19(3) of the Administrative Tribunals Act, 1985. We would however make it clear that the applicant is at liberty to file a fresh application ~~application~~ before the Tribunal if he continues to remain aggrieved after final orders are passed in respect of the disciplinary proceedings now under any way. In this circumstances of the case there will be no order as to costs.

T. Chandrasekhar
(T.C.Reddy)
Member(J)

P.S. Chaudhuri
(P.S. Chaudhuri)
Member(A)