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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

424/91

O.A. 424/91

S.A.H. Jafri,
Motorman,
Central Railway,
r/o.F-270,
Beside Central Railway Hospital,
Kalyan, Dist. Thane. ... Applicant

vs.

Divisional Railway Manager,
Central Railway,
Bombay V.T. ... Respondent

Coram: Hon'ble Shri Justice U.C. Srivastava,
Vice-Chairman.

Hon'ble Shri P.S. Chaudhuri,
Member(A)

Appearances:

1. Mr. L.M. Nerlekar
Advocate for the
Applicant.
2. Mr. S.C. Dhavan
Advocate for the
Respondent.

ORAL JUDGMENT:

Date: 14-8-1991

Per P.S. Chaudhuri, Member(A)

In this application filed on 19-7-1991 the applicant, who is working as Motorman on Central Railway at Bombay V.T., is challenging the order dated 26-6/1-7-1991 by which the penalty of reduction to lower ^{post,} grade and ^{time} scale of pay for a period of three years without cumulative effect has been imposed on him.

2. We have heard Mr. L.M. Nerlekar, learned counsel for the applicant and Mr. S.C. Dhavan, learned counsel for the respondent.

3. It is Mr. Nerlekar's submission that the impugned order is bad in law on a number of grounds, one of which is the fact that the applicant was not allowed a defence assistant of his choice. It is also his submission that the statutory appeal procedure does not provide for a stay of the impugned order.

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It is his conclusion, that, therefore, that the applicant is entitled to approach this Tribunal even without filing an appeal. In support of this he cites the case of Charansingh v. Union of India and others, 1986(2) SLJ(CAT) 245 decided by a Division Bench on 1-7-1986.

4. We are not impressed with these submissions. It is not disputed that the applicant has a statutory right of appeal. It is not disputed that he has not exercised his right of appeal. It is not disputed that under Section 20 of the Administrative Tribunals Act, 1985 an application shall not ordinarily be admitted unless all the remedies available as to redressal of grievances have been exhausted. It was Mr. Nerlekar's contention that the present case came within the ambit of being not an ordinary case. We are not impressed with this submission. We are unable to see anything extraordinary in this case. Even the citation quoted by him is not of help because on 12-4-1990 a Full Bench held in B. Parameswara Rao v. Divisional Engineer, Telecommunication, Elluru, O.A. 27/90 before the Hyderabad Bench, that: "We are of the opinion that the view taken by the Chandigarh Bench that an application under Section 19 of the Act can be filed even without exhausting the remedy of appeal/representation under service rules is not correct." Mr. Nerlekar's submission regarding the statutory rules not providing for interim relief is also of no use as it is always open to the Appellate Authority to allow the appeal and thereby remove the need for even an interim order.



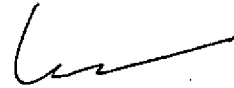
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5. In this view of the matter we are of the opinion that this application is premature and deserves to be ~~xxx~~ rejected.

6. We accordingly summarily reject the application under Section 19(3) of the Administrative Tribunals Act, 1985. The applicant is at liberty to approach the Tribunal afresh in accordance with law after exhausting all possible remedies available to him. In the circumstances of the case there will be no order as to costs.



(P.S. CHAUDHURI)
Member(A)



(U.C. SRIVASTAVA)
Vice-Chairman