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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 31/92
T.A. NO: *

199

DATE OF DECISION 24.6.1992

SHRI S.M.BHAVE Petitioner

Shri G.K.Masand, Advocate for the Petitioners

Versus

The Gen. Manager. W.R. Respondent
Bombay Churchgate.

MR.N.K.SRINIVASAN. Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. USHA SAVARA, MEMBER(A)

The Hon'ble Mr. J.P.SHARMA, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ys
2. To be referred to the Reporter or not ? ys
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 ?

mbm*

J.P. Sharma
(J.P.SHARMA)
MEMBER(J)

srl

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO: 31/1992

Shripad Mahadeo Bhawe,
residing at B-1, Om Sabri,
Subhash Cross Road.No.1,
Vile-Parle (East), Bombay.

....Applicant

V/s

1. Union of India, through
the General Manager, Western
Railway, Churchgate,
Bombay-400020
2. Additional Divisional Railway,
Manager (G), Western Railway,
Bombay Central, Bombay - 400008
3. Senior Divisional Commercial
Superintendent, Western Railway,
Bombay Central, Bombay-400008.

....Respondents

CORAM : HON'BLE MEMBER USHA SAVARA, MEMBER(A)

HON'BLE MEMBER SHRI J.P.SHARMA, MEMBER(J)

Appearance:

Mr.G.K.Masand, Adv.
instructing Mr.G.R.Menghani,
Adv. for the applicant

Mr. N.K.Srinivasan, Adv.
for the respondents.

ORAL JUDGEMENT

Dated: 24.6.1992

(PER : J.P.SHARMA, M/J)

We heard the learned counsel for the
applicant on the point of admission. The applicant
has assailed in this case, the order passed by the
Disciplinary Authority dated 25.1.1991 imposing the
penalty of dismissal from service.

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2. The case has a chequered history. The applicant has also earlier filed O.A.No.28/90 assailing the order of dismissal dated 29.9.1989. It appears that O.A. was allowed and the applicant was given an opportunity to file an appeal. The said order was ^{mentioned} still / in the appeal and the appeal was dismissed. The applicant again came to the Tribunal in O.A.No.672/90 and that O.A. was allowed on the basis of principle laid down in the case of Ramzan Khan V/s Union of India by the Hon'ble Supreme Court, the point raised in the O.A. was that, not attaching the copy of the inquiry report to the impugned order. In view of the technical lacuna left by the disciplinary authority, of not furnishing a copy of the enquiry report prior to imposing penalty on the applicant. The disciplinary authority now has passed impugned order.

3. The learned counsel for the applicant emphatically argued that, since, he has already gone through the process of filing the appeal earlier, it will be only waste of time to go again through the same process as the appellate authority had already made it's mind in this, in dismissing earlier appeal almost on the same ground taken in that appeal.

4. When there is statutory remedy available to the applicant, then that should be exhausted and that is the law laid down by the FULL BENCH, CAT, HYDERABAD BENCH and decided O.A.No.27/90 by the order 12.4.1990. In view of the facts and circumstances of this original application, the case is hit by Section 20 of the Administrative Tribunals Act, 1986.

5. In view of the facts and circumstances, of this application cannot be admitted unless, the applicant exhausts departmental statutory remedy available to him by filing the appeal against the impugned order.

6. The learned counsel for the applicant, however, rightly stressed that point, that the statutory period for preferring an appeal has ended and the appeal may be drawn out on the point of limitation. He wanted protection to that effect.

7. In fact, the applicant should not suffer for any fault in filing this application prematurely.

8. In view of the above, the application is dismissed as premature with the direction to the respondents to entertain the appeal irrespective of point of limitation, if he prefer within one month from today and decide the same by it's speaking order in a reasonable manner covering the points, which the applicant desire to raise in the said appeal.

9. In view of this fact, this application is disposed off. DASTI.

J. P. Sharma
(J.P.SHARMA)
MEMBER (J) 24.6.92

Usha Savara
(USHA SAVARA) 24/6/92
MEMBER (A)