

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.362/93

Thursday this the 9th day of December, 1999.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

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

M.K.Suryavanshi
MRCL Gangman,
Under P.W.I.,
Central Railway,
Bhusaval.

... Applicant

By Advocate Shri V.M.Bendre

V/S.

Union of India through
General Manager,
Central Railway,
Bombay V.T.

2. Divisional Railway Manager,
D.R.M. Office, Central Railway,
Bhusaval, Dist. Jalgaon.

3. Asstt. Engineer (T),
Office of Asstt.Engineer(T),
Central Raliway, Bhusaval.

... Respondents

By Advocate Shri S.C.Dhawan

O R D E R (ORAL)

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed by the applicant claiming back wages for the period he was without service in view of the earlier punishment order. Respondents have filed reply opposing the application. Now the applicant has filed M.P.No.848/99 for

amendment to the OA. which is seriously opposed by the learned counsel for the applicant. The applicant's case is that he is entitled to back wages as per the common order of this Tribunal dated 29.4.1991 in OA.Nos.468/88 and 851/89. A copy of the order of the Tribunal is at page 10 of the paper-book. That order says that the punishment order against the applicant is set aside and the case is remanded to the department to hold regular inquiry against the applicant as per rules and the applicant is entitled for back wages if he is finally exonerated after completion of enquiry. In view of this direction in the previous judgement, the applicant has filed this OA. seeking back wages on the ground that he has been exonerated by the disciplinary authority.

The respondents have now brought on record a fact that the applicant has since been punished in the disciplinary enquiry by the appellate authority and therefore the applicant's claim for back wages does not sustain. Now in the present OA. the applicant seeks the leave of the Tribunal to challenge the order of the appellate authority on some grounds.

2. After hearing both sides, we find that in view of the punishment imposed by the appellate authority, the present OA. asking for back wages is not maintainable. As far as the applicant's prayer in the M.P. that he may be permitted to challenge the order of the appellate authority, we feel that this amendment cannot be granted at this stage since the applicant has

to exhaust the statutory remedies against the appellate authority's order and if he ~~cannot~~ ^{does} succeed, he can challenge the order in accordance with the law. Admittedly, the applicant has not exhausted the remedy, therefore, amendment cannot be allowed. The applicant can approach the next higher authority by preferring an appeal and then if he is unsuccessful he can approach this Tribunal for whatever reliefs that are permissible under the law. In the circumstances of the case, we are not expressing any opinion on merit on the contentions of both the sides.

3. In the result, the O.A. and M.P. are disposed of subject to above observations. No costs.

B.N.Bahadur

(B.N.BAHADUR)

MEMBER (A)

R.G.Vaidyanatha

(R.G.VAIDYANATHA)

VICE CHAIRMAN

mr.J.