

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH.

Original Application No. 615/93

Transfer Application No. ~~XXXXXXX~~

Date of decision 2-7-1993

S.A. Nikam

Petitioner

Mr. G. S. Walia

Advocate for the Petitioner

versus

U.O.I. & Ors.

Respondent

Mr. S. C. Dhawan

Advocate for the Respondent(s)

Coram :

The Hon'ble Shri Justice M.S. Deshpande, Vice-Chairman

The Hon'ble Shri M.Y. Priolkar, Member(A)

1. Whether the 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 ?

  
(M.S. DESHPANDE)  
VC

M

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.615/93

S.A.Nikam,  
C/o.G.S.Walia,  
Advocate, High Court,  
16, Maharashtra Bhavan,  
Bora Masjid Street,  
Fort,  
Bombay - 400 001.

.. Applicant

-versus-

1. Union of India  
through  
General Manager,  
Central Railway,  
Bombay V.T.  
Bombay- 400 001.

2. Chief Claims Manager/  
Chief Claims Officer  
Central Railway,  
Bombay V.T.  
Bombay - 400 001.

3. Sr.Commercial Manager(G)  
CCM's Office,  
Central Railway,  
Bombay V.T.  
Bombay 400 001.

.. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande  
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,  
Member(A)

Appearances:

1. Mr.G.S.Walia  
Advocate for the  
Applicant.

2. Mr.S.C.Dhawan  
Advocate for the  
Respondents.

ORAL JUDGMENT : Date: 2-7-1993  
(Per M.S.Deshpande, Vice-Chairman)

Mr.G.S.Walia for the applicant and

Mr.S.C.Dhawan for the respondents.

2. Mr.Dhawan raises preliminary objection  
as the alternate remedy against the order of  
removal has not been pursued by the applicant.  
According to Mr.Walia since the authority who  
has passed the order of removal is inferior  
to that of appointing authority <sup>it</sup> is in patent

violation of Article 311(1) of the Constitution and this Tribunal should ~~not~~ entertain this application.

He relies on a decision of the Supreme Court in the case of A.V.Venkateswaran vs. R.S. Wadhwani, AIR 1961 SC 1506 in support of the point that the Tribunal can entertain the application when the plea of want of jurisdiction is taken. There is no doubt about the jurisdiction about the Tribunal to entertain the application even where an alternate remedy which is available has not been pursued. However, in the present case we find that ~~we~~ we ought not to entertain this application as all the points raised in the application can be raised before the appellate authority.

3. The application is dismissed summarily.

  
(M.Y.PRIOLKAR)  
Member(A)

  
(M.S.DESHPANDE)  
Vice-Chairman

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