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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 488/94

Transfar Application No:

DATE OF DECISION: 22.4.94

Shri S.P.Kulkarni Petitioner

Shri A.G.Deshpande Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri S.S.Karkera for Advocate for the Respondent(s)

Shri P.M.Pradhan.

CORAM :

The Hon'ble Shri N.K.Verma, Member (A)

The Hon'ble ~~xxxx~~ Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

NO

N.K.Verma
(N.K.Verma)
Member (A)

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 488/94

Shri S.P.Kulkarni
V/s.

... Applicant.

Union of India through
Secretary,
Ministry of Communications
New Delhi.

Director General
Dept. of Posts,
New Delhi,

Chief Postmaster General
Bombay.

Postmaster General
Goa Regiona, Goa,

Sr. Supdt. of Post
Offices, Sangli.

... Respondents.

CORAM: Hon'ble Shri N.K.Verma, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri A.G.Deshpande, counsel
for the applicant.

Shri S.S.Karkera for Shri
P.M.Pradhan, counsel
for the respndents.

ORAL JUDGEMENT

Dated: 22.4.94

¶ Per Shri N.K.Verma, Member (A) ¶

The applicant has filed this application for quashing the order of Appellate Authority dated 31.3.93, by which the applicant has been punished withholding of one increment for a period of 24 months without cumulative effect. The applicant presses that this order may be quashed ~~and~~ ^{as} it is illegal and void for violation of Rule 27(2) (a) and (b) of the C.C.S. C.C.A Rules. It is seen from the appellate order that the Appellate Authority had modified the Disciplinary Authority's order of withholding of increments for 35 months without cumulative effect to that of 24 months, thereby reducing which is ^{1/2} one of the minor penalty under the C.C.S. C.C.A Rule. When asked whether the

applicant had exhausted the departmental remedies. Shri Deshpande, counsel for the applicant submitted that the exhaustion of departmental remedies is optional to the applicant.

In support of the arguments he has produced an order of this Tribunal at Ernakulam Bench in OA 107/91 decided on 7.8.92, in which because of the dis-agreement between the two Members, the Vice Chairman under the orders of the Chairman made an observation that:

"The scope of delivery of justice by the Tribunal cannot be circumscribed by overstretching Section 20 of the Administrative Tribunals Act from the limit of entertaining an application to restricting the grounds on which the application can be legitimately be based."

With all respects to the Vice Chairman of that Bench we are not persuaded to accept that observation in view of Section 20 of Administrative Tribunals Act which stipulates that (1) A tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances and, (2) It is clarified that for the purposes of sub-section (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

It is seen that under Rule 29 the applicant had the remedy of seeking a revision of the appellate order at a higher level. It is not understood how the Benches of this Tribunal would open the doors so wide so as to keep on admitting any application against appellate orders confirming/ modifying penalty imposed or modified by an Appellate Authority without the applicant having exhausted all the remedies available to him or her at a particular time. We are not inclined to admit this case in view of these reasons. The application is rejected at the admission stage itself. The applicant may seek redressal at the appropriate level in the department of the respondents.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

N.K.Verma
(N.K.Verma)
Member (A)

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