

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 555/98

Date of Decision: 26/3/99

V. A. Jogdand

Applicant.

Shri G. S. Walla

Advocate for
Applicant.

Versus

Union of India & Anr.

Respondent(s)

Shri R. R. Shetty

Advocate for
Respondent(s)

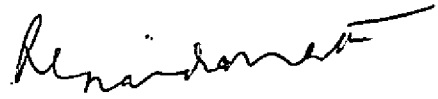
CORAM:

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

Hon'ble Shri. D.S. Baweja, Member(A).

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6,4TH FLR,PRESCOT RD,
FORT, MUMBAI - 400 001.

ORIGINAL APPLICATION NO:555/98.

DATED THE 26TH DAY OF MARCH, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.
Hon'ble Shri D.S.Baweja, Member(A).

V.A.Jogdand,
Working as
Senior Section Engineer,
C/o.C.R.S.E. Head Quarters,
C.S.T.,
Mumbai - 400 001.

... Applicant.

By Advocate Shri G.S.Walia.

v/s.

1. Union of India, through
General Manager,
Central Railway,
Head Quarters office,
C.S.T.,
Mumbai - 400 001.

2. Divisional Railway Manager,
Central Railway,
Head Quarters office,
C.S.T.,
Mumbai - 400 001.

... Respondents.

By Advocate Shri R.R.Shetty.

I O R D E R I

[Per Shri R.G.Vaidyanatha, Vice Chairman]

The applicant has filed this application challenging the action of the respondents in stopping increment for three years without any order of punishment and also seeking a direction for his promotion and other reliefs. Respondents have filed reply opposing the application.

2. Respondents have brought out in the reply that a minor penalty has been imposed on the applicant by Disciplinary Authority vide charge sheet dated 18/11/96 of withholding of increment for three years with non-cumulative effect. We have heard both counsels regarding admission and Interim relief.

3. Applicant's counsel submitted that applicant has

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not been served of any order of penalty till he filed OA as late as 27/1/99.

Applicant's counsel submits that this impugned order dated 18/11/96 has far reaching consequences and therefore he can challenge the same in the present OA. He further submits that this order dated 18/11/96 is not accompanied by any speaking order giving reasons for imposition of penalty. He therefore submitted that without approaching the Appellate Authority he can challenge the legality of the order dated 18/11/96 in the present OA itself.

4. After hearing both sides, we feel that normally an official has to exhaust the departmental remedies as provided under section-20 of Administrative Tribunals Act. No doubt the applicant filed the present OA on 23/6/98 when he had not been served with any order of penalty. He now submits that during the pendency of the application, the applicant has been served with the Impugned order dated 18/11/96 and therefore applicant now gets a cause of action to challenge that order before the Appellate Authority. We are not expressing any view as the applicant is at liberty to appeal to Appellate Authority. Even those points which were pressed before us be urged before the Appellate Authority. If the Appellate Authority agrees with the contentions of the applicant, then he has every right to set aside the order of disciplinary authority. Even if the Appellate Authority rejects the appeal of the applicant, then he can approach this Tribunal under section-19 of Administrative Tribunals Act. It may be that applicant was served with Impugned order dated 18/11/96 on 27/1/99 and since he had already filed the present OA, he might have been advised not to prefer an appeal. But now since we are taking the view that the applicant must exhaust the departmental remedies we give liberty to file an appeal. If such an appeal is filed within ten days from the date of receipt of copy of order, the Appellate Authority shall consider the same and dispose of the same within a period of

