

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No:642/98

Date of Decision:26/4/99

Shri N.S.Nikhare

Applicant.

Shri H.A.Sawant.

Advocate for
Applicant.

Versus

The General Manager, WRly and Anr.

Respondent(s)

Shri V.S.Masurkar

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 *NO*
other Benches of the Tribunal?

abp.

R.G. Vaidyanatha
(R.G.VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO. 642/98.

DATED THE 26th DAY OF APRIL, 1999.

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

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

Shri N.S. Nikhare,
Dy. CE (S&C) Churchgate,
Western Railway,
Mumbai - 400 020.

... Applicant

By Advocate Shri H.A. Sawant.

v/s.

1. The General Manager,
Western Railway,
HQ Office,
Churchgate,
Mumbai - 400 020.

2. The Union of India,
Acting through the Secretary,
Railway Board, Ministry of Railways,
Rail Bhawan,
New Delhi-110 001.

... Respondents.

By Advocate Shri V.S. Masurkar

I O R D E R I

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

This is an application filed by the applicant challenging the enquiry proceedings and to quash the enquiry proceedings on the ground of delay and other grounds. When the application came for admission today, it is brought to our notice that in pursuance of the Charge sheet and pending enquiry the Disciplinary Authority has already passed final order dated 30/6/98. The applicant has to exhaust the statutory remedies of appeal before approaching this Tribunal as provided under section-20 of Administrative Tribunal Act. The learned counsel for applicant also brings to our notice that he has already filed an appeal dated 12/8/98 before the Appellate Authority namely President of India, but it is not disposed of till now.

2. In our view the present application is now



premature and cannot be continued since the enquiry proceedings has resulted in passing of final order by Disciplinary Authority. In case any adverse order is passed by Appellate Authority, the applicant can approach this tribunal by challenging the orders of Disciplinary Authority and Appellate Authority. The applicant can take all other grounds available to him including the grounds taken in the present OA.

3. *at the* In the result, the OA is disposed of ^{at the} admission stage with a direction to Appellate Authority to dispose of the applicant's appeal dated 12/8/98 by a speaking order within a period of 4 months from the date of receipt of copy of this order. A copy of this order be communicated to both the respondents for information and compliance. All contentions of the applicant on merits and grounds taken in the OA are left open. This order is passed without prejudice to the rights of applicant on merits.

Liberty also to the applicant to send an additional representation to the Appellate Authority taking the grounds mentioned in the OA as additional grounds and if such a representation is received, the Appellate Authority shall consider the same alongwith the appeal and dispose of the same according to law by a speaking order. There will be no orders as to costs.

D.S. Bawali
(D.S. BAWALI)
MEMBER (A)

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.