

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 749 OF 2022**

Payal Deelip Patel

...Petitioner

V/s.

Union of India, Ministry of  
Railways, through Chairman  
& Ors.

...Respondents

Mr. Amol Jagtap for the petitioner.

Ms. Smita V. Thakur for respondent nos. 1 to 3.

Mr. P. P. Kakade, Government Pleader with Ms. R.  
A. Salunkhe, AGP for respondent nos. 4 & 5/State.

**CORAM: DIPANKAR DATTA, CJ &  
M. S. KARNIK, J.**

**DATE: JUNE 30, 2022**

**P.C.:**

**1.** A preliminary objection to the maintainability of this writ petition has been raised by Ms. Thakur, learned advocate representing the respondents 1 to 3. According to her, the remedy of the petitioner lies in an original application under section 19 of the Administrative Tribunals Act, 1985 before the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short) having regard to the fact that the petitioner is a Central Government employee.

**2.** Learned advocate appearing for the petitioner has placed before us an order dated 5<sup>th</sup> March 2021 passed by a bench of

the Tribunal in Original Application No. 210/193 of 2021. Relying on such order, it is submitted that unless a specific order is passed by the official respondents on the representations made by the petitioner, the Tribunal would not entertain any original application.

**3.** We have read the order dated 5<sup>th</sup> March 2021 and find the same to be confined to the original applicant before the Tribunal. He had approached the Tribunal without there being any order of transfer and according to the Tribunal, he had unnecessarily indulged in wasteful litigation.

**4.** It is not the law that an application under section 19 of the Administrative Tribunals Act, 1985 would be maintainable only if an order passed by the department/respondent is under challenge. Such an application would also lie if the department/respondent has been inactive and failed to consider any representation that the applicant might have submitted before it. We do not see any reason to hold that the order dated 5<sup>th</sup> March 2021, referred to by the petitioner's learned advocate, is an impediment for the petitioner to approach the Tribunal with an original application, particularly when it is her grievance that the representations made by her seeking issuance of training letter (as well as for commission to send her for training) have not been considered. The petitioner has taken recourse to remedies that are available in law and her representations not having been addressed, in view of the provisions of section 20 of the Act read with section 21 thereof, the petitioner could well move the Tribunal for a direction on the respondents to consider such representations.

**5.** With the aforesaid observations, the writ petition stands dismissed. No costs.

**6.** However, nothing contained in this order shall preclude the petitioner to move the Tribunal for appropriate relief in accordance with law.

**(M. S. KARNIK, J.)**

**(CHIEF JUSTICE)**

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