

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK,**

ORDER SHEET

COURT NO. : 1

04/03/2020

O.A./260/213/2018

B MIRDHA

-V/S-

M/O RAILWAYS

ITEM NO:51

FOR APPLICANTS(S) Adv. :

Mr. J. Gupta

FOR RESPONDENTS(S) Adv.:

Mrs. S. Rajaguru

Notes of The Registry	Order of The Tribunal
	<p>Heard Ld. Counsels for the applicant and respondents.</p> <p>Applicant's counsel submitted the appeal of the applicant has been rejected only on the ground of delay and he submitted that the matter may be remitted to the appellate authority to reconsider the matter, since the other grounds on merit taken by the applicant have not been taken into consideration by the Appellate Authority. Learned counsel for the respondents objected to the submissions and stated that after the punishment order dated 11.12.2012, the applicant had filed appeal after about five ours.</p> <p>It is seen from record that the appeal dated 06.07.2017 (Annexure-A/3 series) of the applicant has been disposed of by the Appellate Authority vide order dated 25.07.2017 (Annexure-A/4) on the ground that the appeal has been filed with delay and nothing substantial is found to explain his long absence. It is further noticed that the applicant has submitted the reasons of his illness, filing the medical certificates to that effect, which are also enclosed with the memorandum of appeal</p>

dated 06.07.2017 (Annexure-A/3 series). The applicant has claimed that he was suffering from psychosis from 22.10.2009 to 03.07.2017 and was discharged on 04.07.2017. Medical certificates to that effect has been enclosed at Annexure-A/3 series of the O.A. Applicant's counsel had submitted that after the applicant was cured, he came to know about the allegations made in the chargesheet and the order of punishment.

It is seen that the Appellate Authority/Sr. Divisional Operations manager/Sambalpur had passed the order dated 25.07.2017 (Annexure-A/4) rejecting the appeal on the ground of delay without considering the reasons for delay as mentioned in the appeal dated 06.07.2017 (Annexure-A/3 series). The said appeal order is also a non-speaking order which is not as per the existing rules and hence, it is not sustainable. In the interest of justice, it was expected from the Appellate Authority for careful consideration on the ground of illness from which the applicant was suffering for considerable period and also then consider other grounds as mentioned in his appeal. It is learnt that the Appellate Authority failed to act in accordance with the rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968. The order dated 20.09.2017 (Annexure-A/6) of the next higher authority i.e., ADRM (Respondent No.2) as a consequence is also not sustainable. Hence, the impugned order dated 25.07.2017 (Annexure-A/4) and 20.09.2017 (Annexure-A/6) are set aside and the matter is remitted to the Appellate Authority (i.e., respondent No.3) for fresh consideration of the appeal dated 06.07.2017 (Annexure-A/3 series) in accordance with the rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968.

The applicant is at liberty to file an additional application taking further grounds as available to him and also submit relevant documents and citations in his favour with specific request to the appellate authority for condoning the delay along with justifications, along with a copy of this order for personal hearing within 15 days of receipt of copy of this order. If such a letter is received from the applicant the Appellate Authority/Respondent No.3 will consider the same in accordance with law along with the request for condonation of delay and opportunity of personal hearing, if made by the applicant and pass an appropriate speaking and reasoned order in accordance with law within two months from the date of date receipt of a copy of this order/additional application from the applicant as stated above.

It is made clear that we have not expressed any opinion on other issues raised in this O.A. With the above observations and directions, the O.A. stands disposed of. No order as to cost.

Copy of this order to Ld. Counsels for both sides.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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