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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 605/2001

New Delhi this the 31st day of January, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Mr. S.A.T. Rizvi, Member(A).

Harichand,
S/o late Shri Mangat Ram,
R/o H.No. 74, Sunder Nagar,
Near Rail Bhawan Complex,
Ambala Cantt.

.... Applicant.

(By Advocate Shri Y.P. Sharma)

Versus

1. Union of India through
Ministry of Rail,
Rail Bhawan,
Delhi.

2. A.D.R.M./4 M.B.,
Ambala Cantt.

3. D.M.E.,
Northern Railway,
Ambala Cantt.

4. R.K. Kamboj,
then T.X.R.,
Ambala Cantt.

5. Divisional Personnel,
officer N. Railway,
Ambala Cantt.

... Respondents.

(By Advocate Shri Rajinder Khatter)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

In this application, the applicant has challenged the charge-sheet and subsequent penalty orders issued by the respondents, namely, the disciplinary authority's order dated 25.5.1990 and the appellate authority's order dated 21.8.1990 as being illegal. He has also prayed that the revision authority's order dated 24.2.1997 rejecting his review petition and the above punishment orders should be

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quashed and set aside and he should be put back in the post of Fitter after one year of the appellate authority's order dated 21.8.1990.

2. The admitted facts are that the applicant while working as Fitter was issued a charge-sheet on 18.10.1988 following which, the aforesaid punishment orders were issued by the competent authorities, namely, the disciplinary authority and the appellate authority on 25.5.1990 and 21.8.1990, respectively. In the appellate authority's order, while he had set aside the order removing the applicant from service, it was directed that "he may be offered the job of a Khalasi at the initial grade to start with and his conduct be watched for one year whereafter, his case may be reviewed". It was also mentioned that for the time being, he should not be posted at Ambala. The article of charge levelled against the applicant related to the fact that he talked in ^a rough manner to a senior officer, shouted on the telephone and slapped on the face of TXR on the date in question, i.e. 28.9.1988. Learned counsel for the applicant has relied on a letter dated 12.4.1992 from the Coach Depot Officer, Bhatinda, regarding the conduct of the applicant subsequent to his joining duty as Khalasi on 19.9.1990 wherein he has stated, inter alia, that he has performed his duties sincerely and he has not misbehaved with any one since last one year and his work is satisfactory. According to the learned counsel for the applicant, this means that as per the earlier order passed by the respondents, the applicant ought to have been put

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back after a period of one year for his good behaviour as Fitter. He has submitted that thereafter the applicant kept on making repeated representations to review his case in terms of the appellate authority's order. He has drawn our attention to the order dated 21.10.1999 which appears to be in response to his letter dated 4.10.1999. According to him, since he was only communicated ^{the 1st} letter of the revision authority dated 24.2.1997 by this communication, there is no delay in filing the application which has been ultimately done on 22.2.2001. In the circumstances, learned counsel has prayed that the aforesaid reliefs should be granted to the applicant by quashing the penalty and the revision authority's order dated 24.2.1997, with all consequential benefits.

3. The above averments have been opposed by Shri Rajinder Khatter, learned counsel for the respondents. We have also seen the reply filed by the respondents. He has also produced the relevant official records for our perusal.

4. From the documents on record, it is clear that in terms of the appellate authority's order dated 21.8.1990 to the appeal submitted by the applicant, the respondents have considered the same and communicated that the same has been rejected. In the order issued by the revision authority dated 24.2.1997, he has clearly mentioned that a lenient view has already been taken by the appellate authority while considering his appeal and reference has also been made to the acceptance of guilt by the applicant

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in writing on 9.7.1990, namely, that he had given up alcohol after the incident in question. The revision authority has, therefore, come to the conclusion that there is no reason to interfere with the punishment and leniency has already been shown in spite of the serious offence committed by him. In the facts and circumstances of the case, Shri Rajinder Khatter, learned counsel has also submitted that the O.A. is hopelessly barred by limitation, as, admittedly, the applicant has merely been making representations which cannot save the situation. In the circumstances, he has prayed that the O.A. may be dismissed.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. On perusal of M.A.528/2001 filed by the applicant praying for condonation of delay, we find that no good grounds or sufficient grounds have been brought out for condoning the delay. At the same time, learned counsel for the applicant has submitted that there is, in fact, no delay based on the letter dated 21.10.1999 as, according to him, the revision authority's order dated 24.2.1997 has been received only in 1999 by him. Even if the letter dated 21.10.1999 is taken into account, we note that the O.A. has been filed well after one year after the receipt of that letter. In the letter dated 21.10.1999, the respondents have stated, inter alia, that the earlier

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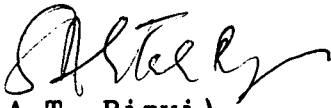
decision has been communicated to the applicant by letter dated 24.2.1997. As the learned counsel for the applicant contends that no such letter of 1997 had been received by the applicant, it would be reasonable to expect that he would have immediately communicated the same to the respondents to obtain a copy of the same. Nothing has been stated or placed on record by the learned counsel for applicant to show ^{that he did} any such thing. In the facts and circumstances of the case, his contention that the application is not barred by time, cannot be accepted and there is also no good grounds to condone the delay under the provisions of Section 21(3) of the Administrative Tribunals Act, 1985.

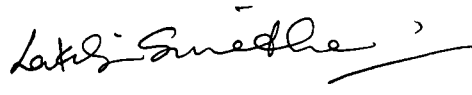
7. We are also unable to agree with the contention of learned counsel for the applicant that in view of the appellate authority's order dated 21.8.1990, when it was ordered that the applicant's case may be reviewed after watching his conduct for a period of one year, it would automatically mean that he should be placed back in the post of Fitter. The disciplinary authority had removed him from service vide order dated 22.5.1990 and the appellate authority had modified that order by directing him to ^{be} offered ¹³² the job of Khalasi at the initial grade to start with and his conduct to be watched and thereafter, reviewed. These facts have been clearly taken into account by the revision authority by his order dated 24.2.1997 and we find that neither his reasoning or conclusions can be considered as illegal or arbitrary, justifying any interference in the

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matter. No such conclusions can also be arrived at, as contended by the learned counsel for the applicant, that at the end of one year after review, the applicant had to be necessarily put back as Fitter. Therefore, on merits also, we find no justification to interfere in the matter.

8. In the result, for the reasons given above, the O.A. fails and is dismissed both on the grounds of limitation as well as merits. No order as to costs.


(S.A.T. Rizvi)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

'SRD'