

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1504/94

(8)

NEW DELHI THIS THE 23RD DAY OF MARCH, 1995.

MR.JUSTICE S.C.MATHUR, CHAIRMAN
MR.P.T.THIRUVENGADAM, MEMBER(A)

Shri Gindresh Muni,
S/o Shri Vindhya Chal Singh,
ex. Substitute Loco Cleaner
under Locoforeman,
Northern Railway,
R/o House No.45, Gali No.4
Sangham Vihar,
New Delhi.

... APPLICANT

(BY ADVOCATE SHRI B.S.MAINEE)

Vs.

Union of India through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Moradabad.

... RESPONDENTS

(BY ADVOCATE SHRI K.K.PATEL)

ORDER(ORAL)

JUSTICE S.C.MATHUR:

The applicant is aggrieved by the order of removal from service passed after holding departmental proceedings against him.

2. The order of removal was passed on 3.1.1994. Against this order, the applicant claims to have preferred an appeal on 1.2.1994 by personally presenting it in the Office of the Senior Divisional Manager, Northern Railway, Moradabad. He also claims to have sent a copy of the appeal by registered post despatched on 14.2.1994. It is claimed by the applicant that the registered article was received in the office of the Senior Divisional Manager on 23.2.1994. The Original Application, in the Tribunal, was filed on 21.7.1994.

3. The learned counsel for the respondents has submitted that the applicant has falsely stated that he has filed an appeal before the concerned appellate authority. According to him, no appeal has been received in the Office of the Senior Divisional Manager. It is pressed that the applicant was not entitled to file the present Original Application without exhausting the alternative remedy. It is also submitted by the learned counsel that even if it is accepted that the applicant preferred the appeal, as alleged by him, he has approached the Tribunal without waiting for the period of six months prescribed in Section 20 of the Administrative Tribunals Act, 1985(for short, the Act).

3. In support of the submission that the appeal had, in fact, been filed personally, the learned counsel for the applicant has invited our attention to the endorsement on Annexure A-12 which is claimed to be a copy of the appeal. This endorsement does not bear any seal. This mentions "Rajeshwar Singh Uppal ^{का} दस्ता". From this, it would appear that it is not an acknowledgement given by Rajeshwar Singh. It appears to be an endorsement made either by the applicant himself or by someone else. This endorsement cannot, therefore, amount to an acknowledgement of receipt of the memorandum of appeal in the Office of the Senior Divisional Manager.

4. So far as the appeal having been sent through registered post is concerned, the learned counsel for the applicant has invited

our attention to the copies of postal receipt and the acknowledgement filed as Annexure A-13 to the Original Application. The learned counsel has produced before us the original also. The original postal receipt bears the No.761 and it bears the date 14.2.1994. The acknowledgement receipt bears the date 23.2.1993 below the signature of the person who it appears received the registered article. There is thus a discrepancy in the dates. Accordingly, from these documents, it is not conclusively established that the memorandum of appeal was actually received in the Office of the Senior Divisional Manager through registered post.

5. The position of receipt of memorandum of appeal in the department being uncertain and the applicant having approached the Tribunal before the expiry of the period of six months prescribed in Section 20 of the Act, we are of the opinion that ends of justice will be served if the respondents are directed to treat the document which has been filed as Annexure A-12 to the Original Application as an appeal and decide the same in accordance with law.

6. In view of the above, the Original Application is dismissed on account of availability of alternative remedy and approach to the Tribunal before expiry of the period of six months prescribed in Section 20 of the Act with the direction

to the respondents to treat the document Annexure A-12 to the Original Application as an appeal directed against the order of removal from service dated 3.1.1994. The appellate authority shall dispose of the appeal in accordance with law within a period of three months from the date a certified copy of this order is placed before it. If the applicant fails to get redressal from the appellate authority, it will be open to him to approach the Tribunal afresh.

7. There shall be no order as to costs.

P. J. A.

(P.T.THIRUVENGADAM)
MEMBER(A)

S. C. MATHUR
CHAIRMAN

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