

Central Administrative Tribunal
Principal Bench: New Delhi

RA No.218/95
IN
OA No.577 of 1990

New Delhi this the 25th day of September 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Ramamoorthy, Member (A)

Har Narain
Head Parcel Clerk
Northern Railway
at present working at
Nizamuddin Railway Station
New Delhi.

...Applicant

(Through Mr Romesh Gautam, Advocate)

Versus

Union of India through

1. General Manager
Northern Railway
Baroda House
New Delhi.
2. Chief Commercial Superintendent
(Now Chief Commercial Manager)
Northern Railway
Baroda House
New Delhi.
3. Additional Divisional Railway Manager
Northern Railway Divisional Office
State Entry Road
New Delhi.
4. Senior Divisional Commercial Superintendent
(Now Senior Divisional Commercial Manager)
Divisional Office, Baroda House
Baroda House, New Delhi.
5. Divisional Commercial Superintendent
(Now Divisional Commercial Manager)
Northern Railway Divisional Office
New Delhi.

...Respondents.

(Through Mr P.S.Mahendru, Advocate)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The original application, ^{which was} admitted at the time of

We have perused the pleadings and the materials on record and have heard Mr Ramoesh Gautam, counsel for the applicant and Mr P.S.Mahendru, counsel for the respondents. The short question that arises for consideration is whether there has been any error apparent on the face of record in the order of the Tribunal dismissing the original application on the grounds of limitation. The Tribunal took the view that the impugned order being of the year 1987, the original application filed in 1990 was barred by limitation. It was observed in the judgement that the revisional order passed on 3.2.1988 has not been assailed. It has been further observed that a memorial to the President should not be treated as statutory in nature so as to enlarge the period of limitation. It was on the basis of the above conclusion that the Tribunal dismissed the application. It was also observed that repeated unsuccessful representations would not have the effect of enlarging the period of limitation, as has been held by the Hon'ble Supreme Court in its ruling in S.S.Rathore Versus State of Madhya Pradesh reported in AIR 1990 SC 10. Mr Romesh Gautam, placing reliance on the observations of the Hon'ble Supreme Court in its order disposing of the civil appeal in this matter that the petition presented to the President in accordance with the provisions contained in the rule 31 of the Railway Servants (Discipline & Appeal) Rule cannot be considered as a mere memorial presented to the President and, argued that the applicant in this case was told told by order dated 2.6.1989 that his remedy was to present a petition to the President under rule 31 of the Railway Servants (Discipline &

Appeal) Rules was perfectly justified in presenting this application after awaiting the outcome thereof and, therefore, his application could not have been turned down on the ground of limitation. Mr Mahendru, learned counsel for the respondents argued that the applicant in this case had already preferred a revision against the appellate order which was disposed of by order dated 3.2.1988 and this order has not been assailed in the application filed in the year 1990 which was rightly dismissed by the Tribunal and ^{hence} there is no error apparent on the face of record. Giving to the points raised by the counsel our serious consideration, we are of the considered view that the Tribunal has committed an error in applying the principle laid down by the Hon'ble Supreme Court in the decision in S.S.Rathore Vs. State of Madhya Pradesh to the facts of the case because in this case it cannot be said that the applicant was unsuccessful in his repeated representations. Against the appellate order, the applicant filed another appeal on which the order was passed without entertaining it but informing the applicant that his remedy in such circumstances would be only filing a petition under Rule 31 of the Railway Servants (Discipline & Appeal) Rules by order dated 2.6.1989. It cannot be said to be an unsuccessful representation on the part of the applicant because the applicant was shown the right method which he had ^{later} adopted by filing a petition under rule 31 of the Railway Servants (Discipline & Appeal) Rules. This petition was filed on 28.9.1989 under Rule 31 of the Railway Servants (Discipline & Appeal) Rules. Finding no response after waiting for six months, the applicant approached the Tribunal with the original

(P)

application. Therefore, viewed in this light, the original application could not have been dismissed on the ground of limitation. Thus we find that an error has been committed by the Tribunal in taking the view that the application was barred by limitation without advertting to the fact that the applicant had as advised by the official respondents filed a petition under Rule 31 of the Railway Servants (Discipline & Appeal) Rules. Therefore, we allow the Review Application and recall the order dismissing the original application on the ground of limitation passed on 22.7.1994. As the merits of the case have not been gone into, it is necessary to hear the case in detail. Therefore, the Review Application is allowed and the original application is ~~revived~~ revived.

OA is revived as per order in RA No.218/95 dated 25th September 1995 and listed for hearing on merits on 29.10.1996.

R
(K.Ramamoorthy)
Member (A)

A.V.Haridasan
(A.V.Haridasan)
Vice Chairman (J)

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