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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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Regn. No. OA 671 of 1991

Date of decision: 6.6.1991

Kishori Lal

Applicant

Vs.

Union of India

Respondents

PRESENT

Shri P.L. Mimroth, counsel for the applicant.

CORAM

Hon'ble Justice Shri Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Judgment of the Bench delivered by Hon'ble Justice Shri Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

By this O.A., filed under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as 'Act'), the applicant prays for relief that his dismissal order passed by the disciplinary authority be set aside and the respondents be directed to take him on duty and pay the arrears of pay and allowances with interest etc.

2. The applicant filed M.P. No. 826/91 containing the prayer for condonation of delay in filing this O.A. before this Tribunal. According to this M.P., the impugned order was passed on 30.6.1987 by the disciplinary authority. He filed an appeal before the appellate authority but the same was rejected vide letter dated 11.9.87. The revision petition was filed by him before the Chairman, Railway Board, which was rejected on 1.6.89. That ^{revision was also} ~~is~~ not within the time prescribed. The petitioner maintains in his M.P. that as his wife had died on 11.5.85, he developed acute mental abnormality and financial strain. He, therefore, filed the present O.A. on 22.1.91 along with the M.P. Shri Mimroth, counsel for the petitioner, further contended that according to Railway Establishment Rules, class III and IV employess have been given further time for filing the revision and review petitions according to rules. In support of his application, he has also filed an affidavit.

2/2/91



3. Section 21 of the Act prescribes the period of limitation within which an O.A. has to be filed before the Tribunal. Section 21 of the Act further commands that the Tribunal shall not admit an application which has been filed after the period of limitation. The period prescribed for filing an O.A. against the grievance is within one year from the date on which the final order has been passed. Where appeal or representation is provided and the employee prefers to avail the departmental remedy, then a further period of six months has been provided. Thus, the total period of limitation for filing an O.A. is 18 months within which an O.A. must be filed. Sub-section (3) of Section 21 of the Act further provides that an application may be admitted notwithstanding anything contained in Sub-section (1) and Sub-section (2) after the period of one year or 6 months thereafter if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

4. On perusal of the record, it appears that the applicant was served with the chargesheet and a departmental enquiry was held in 1986 because his attendance to duty during 1980, 1981, 1982 till 31.7.1983 was irregular. The enquiry was held and he was removed from service by the disciplinary authority on 30.6.87. He filed an appeal against the penalty which was rejected by the Deputy General Manager and his revision petition, though barred by time, was considered and rejected by the S.D.G.M. The appeal was rejected on 11.9.87 and then his revision petition was also dismissed/ on 1.6.89. Thus, the O.A. was filed after the expiry of the period of limitation and hence this O.A. cannot be admitted according to the commands of Section 21 of the Act.

5. So far as the consideration of grounds of sufficient cause is concerned, they have been shown in the M.P. According to the petitioner, he was suffering from acute mental abnormality and financial strain on account of his wife's continuous sickness and she died on 11.5.85. The impugned order challenged in the O.A. is of 1987.

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Similarly, the rejection of his appeal and revision petitions also took place much after 11.5.85 i.e. the date of the death of his wife. It is strange that in para 1 of the affidavit, filed by the applicant, he has stated that his wife died on 11.5.89. Shri Mimroth, when confronted with this contradiction in the statement of facts, simply underplayed the importance of an affidavit sworn and contended that it was only a typing mistake. We have perused the other documents also. For example, letter from a doctor and from the village people (Annexure A-4). This document is undated and no date of the death of his wife has been mentioned. The facts stated by the petitioner are not only contradictory, but indicate the distortion of facts and suppression of truth. Shri Mimroth could not satisfy this Tribunal that he has sufficient cause for not making the application within the prescribed period of limitation. Consequently, the M.P. containing the prayer for condonation of delay is bereft of any merit and is dismissed. In consequence, this O.A. cannot be admitted. Hence it is dismissed.

C. C. Jain
(P.C. JAIN) 6/4/97
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN (J)