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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

MA.3085/93 AND MA.3086/93 WITH OA.238/92

Dated this the 25th of November, 1994

Shri N.V. Krishnan, Hon. Vice Chairman 'A'
Shri C.J. Roy, Hon. Member 'J'

Shri C.L. Deharia,
Chief Law Assistant,
South Eastern Railway,
Calcutta.

...Applicant

By Advocate: Shri V.K. Sharma

versus

1. Union of India through
General Manager,
South Eastern Railway,
Garden Reach, Calcutta-43.
2. The Secretary,
Railway Board, New Delhi.
3. Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta-43.

...Respondents

By Advocate: Shri P.S. Mehendru by Shri D.S. Mehendru

O R D E R 'Oral'

'By Shri N.V. Krishnan'

MA.3085/93 is for restoration and MA.3086/93 is for condonation of delay.

2. We have heard the parties. This application was filed in January 1992. It came up for hearing on 21.2.92. As none was present for the applicant, the Tribunal perused the records and directed notice be issued to the respondents on admission returnable on 27.3.92. On 27.3.92, none appeared for the applicant and on 24.4.92, when the applicant did not appear, it was held that he had lost interest in the case and dismissed on default.

3. The applicant thereafter filed MPs.1695/92, 1695-A/92 and MP.1695-B/92 - one MP for restoration, one MP for condonation of delay and another MP (1695-A/92) prayed that the Tribunal may be pleased to exempt the applicant's presence and decide the matter on the basis of available records.

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4. In the absence of the applicant, these MPs were dismissed on 20.7.92.

5. The applicant again filed MP.704/93 and 705/93, one for condonation of delay and the other for restoration of all the 3 MPs, which were dismissed on 20.7.92. These were listed on 26.3.93, when the applicant was not present. In the interest of justice, notice was issued returnable on 27.5.93. He was present on 27.5.93. On the submission made by him, we wanted a note from the Registry whether such notice had been given in the past and the case was to be heard on 8.7.93. On that date, the applicant was not present and therefore, the MPs were dismissed in default.

6. Thereafter, the applicant filed MPs.3085/93 and 3086/93 for restoration of the earlier 5 MPs, 3 of which were dismissed on 20.7.92 and 2 on 8.7.93.

7. When this matter was taken up on 7.10.93, we observed, mistakenly though, that, apparently, notice of the hearings had not been sent to him. Therefore, we wanted to hear him. Notice was directed to be issued to him. He appeared on 30.11.93 and thereafter on 7.10.94.

8. We directed the Registry to look into the matter and let us know whether notices of the OA and MPs were given to the applicant. The Registry has given a note, in which, it is indicated that when the applicant did not appear on 21.2.92 a notice was issued to him for hearing on 27.3.92. Yet he did not appear.

9. In the circumstances, in so far as the main OA is concerned, the dismissal in default on 24.4.92 was justified because the applicant did not appear

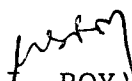
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even though notice was given to him. The learned counsel for the applicant states that the applicant had requested in the OA itself that the case be heard in his absence on the basis of records. If in spite of that request, a notice was issued to him, it only meant that his presence was required by the Bench.

10. In so far as the 3 MPs filed by the applicant which were dismissed on 20.7.92 are concerned, the Registry states that no notice was issued to him in this regard. The applicant himself had prayed in the MP.1695-A/92 that the matter be disposed of, in his absence. Hence, these MPs were dismissed in default.

11. The applicant filed 2 more MPs, 704/93 and 705/93. He appeared on 27.5.93 but did not appear on 8.7.93, when the MPs were dismissed. In this regard, he states in MP.3085/93 that "he sent a telegram to the Principal Bench on 7.8.93 requesting to adjourn the case on 8.7.93" as he had to appear for an interview in Calcutta on 9.7.93. Obviously that telegram, if sent, was sent one month late. If the date of telegram is a misprint for 7.7.93, the date given in MP for condonation of delay, he has not even explained why it was sent at the last moment. In the circumstances, the MP.704/93 and 705/93 is rightly rejected.

12. It is thereafter that MPs.3085/93 and 3086/93 were filed on 16.9.93. Having heard the counsel at length, we are satisfied that the applicant himself is to blame, because, on two occasions, he had notices and ^{he} failed to appear. In the circumstances, the MP for restoration is devoid of merit and is dismissed.


'C.J. ROY'
MEMBER 'J'


28/11/93
'N.V. KRISHNAN'
VICE CHAIRMAN 'A'