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CAT/7/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 759/92
T.A. No.

199

DATE OF DECISION 10-4-97

Sh. Bhudeo Parshad

Petitioner

Sh. B. S. Mainee

Advocate for the Petitioner(s)

UOI & Ors. Versus

Respondent

None for the respondents

Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? *Y*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 759/92

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New Delhi this the 10th day of April, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri K. Muthukumar, Member(A).

Shri Bhudeo Parshad,
Ex-Box Porter, Northern Railway,
Railway Station,
Tundla. .. Applicant.

By Advocate Shri B.S. Maine.

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Allahabad. .. Respondents.

None for the respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application impugning the order passed by the disciplinary authority removing him from service dated 3.8.1989 which has been upheld in appeal by the appellate authority in his order dated 29.5.1991.

2. We have heard Shri B.S. Maine, learned counsel for the applicant and perused the records. None has appeared on behalf of the respondents in spite of notice.

3. The applicant has assailed the impugned order of removal from service on several grounds. The learned counsel has also submitted that against the impugned removal

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(17)

order, the applicant had submitted an appeal to the appellate authority on 30.8.1989 in which he had assailed the impugned penalty order passed by the disciplinary authority. The learned counsel has also submitted that after submitting the appeal dated 30.8.1989 when the applicant had received no reply, the applicant had sent several reminders, including ~~the ones~~
of 16.10.1989, 14.3.1991 and 7.5.1991 (Annexures A-8, A-10 and A-11). Later, he had submitted a revision petition on 17.7.1991 after his appeal had been disposed of by the appellate authority.

4. The respondents have filed their reply in which they have taken a preliminary objection regarding limitation. The learned counsel for the applicant has, however, disputed this matter and stated that the respondents have disposed of the appeal filed by the applicant dated 30.8.1989 only by the order dated 29.5.1991 which has also been impugned in this application filed on 13.3.1992.

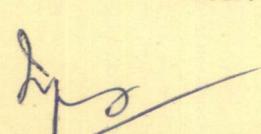
5. We note that the impugned order passed by the respondents dated 29.5.1991 refers to the applicant's representation dated 14.3.1991 which, in fact, is a reminder of the appeal submitted by the applicant dated 30.8.1989. *is seen that the* Therefore, from the records, it / respondents have disposed of the appeal filed by the applicant against the impugned removal order only by their order dated 29.5.1991. Thereafter, this O.A. has been filed on 13.3.1992 and, therefore, the preliminary objection taken by the respondents on the ground of limitation is without any basis and it *is accordingly rejected.*

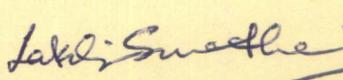
(18)

6. We note from the appellate authority's order dated 29.5.1991 that this is a cryptic order without giving sufficient reasons or details in rejecting the appeal in which the applicant has raised a number of points. In particular, during the course of arguments Shri B.S. Mainee, learned counsel, had referred to the statements made by Shri Hukam Singh Pal, the concerned dealing clerk which had been referred to in the findings of the Inquiry Officer on which nothing has been recorded by the appellate authority nor on the other points which, as already mentioned, have been raised by the applicant. We also note that the impugned order passed by the disciplinary authority dated 30.8.1989 also does not refer to the facts or the details of the disciplinary proceedings but merely states that after careful consideration of the Inquiry Report, the competent authority agrees with the findings and holds the applicant guilty of the charge of which the penalty of removal from service has been imposed.

7. In the above facts and circumstances of the case, the application succeeds. The appellate authority's order dated 29.5.1991 being bad in law is quashed and set aside. The matter is remitted to the appellate authority to pass a reasoned and speaking order, taking into account the grounds taken by the applicant in the appeal dated 30.8.1989 and after giving a personal hearing to the applicant, within three months from the date of receipt of a copy of this order.

O.A. disposed of, as above. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'