

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 27th day of May, 2003.

Original Application No. 604 of 1997.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Subhash Prakash Tirkey S/o Sri Lawtence Tirkey
a/a 25 years. At present residing at C/o P. Kashyap,
Chief Reservation Supervisor, Allahabad, 658-C, Loco
Colony, Civil Lines, 10th Marq, Allahabad.

.....Applicant

Counsel for the applicant :- Sri Wasim Alam (absent)

V E R S U S

1. Union of India owned and represented by/Notice to be served upon the General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. The Divisional Superintending Engineer-III, Northern Railway, Divisional Railway Manager's Office, ~~MOGA~~ Nawab Yusuf Road, Allahabad. (The appellate authority).
3. The Assistant Engineer, Northern Railway, Firozabad (The Punishing Authority).

.....Respondents

Counsel for the respondents :- Sri Prashant Mathur

O R D E R (Oral)

By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

This O.A was filed on 02.04.1997 under section 19 of the Administrative Tribunals Act, 1985 challenging the punishment order dated 20.01.1994 (Annexure A-1) imposing the penalty of removal from service w.e.f 20.01.1994.

2. The applicant was working as Gangman under P.W.I, Mainpuri. The applicant ⁱⁿ ~~was several times~~ ⁱⁿ filed appeal challenging the punishment order dated 20.01.1994. He has annexed the copy of appeal dated 10.10.1995 as Annexure A-2.

The applicant has pleaded in this O.A that he was not at all under unauthorised absence. He was absent on medical ground from 10.04.1990 to 28.10.1992. The applicant has also pleaded that no show cause notice on enquiry report^{in para 5} issued to him. The applicant has also annexed an application dated 10.08.1995 addressed to Assistant Engineer, Northern Railway, Firozabad as Annexure A- 3 wherein he has requested that the enquiry report of the Enquiry Officer be supplied to him to enable him to file appeal.

3. Learned counsel for the respondents submitted that the O.A is highly time barred and is liable to be dismissed. The applicant has not filed any appeal before the competent authority.

4. We have perused records, heard counsel for the respondents and have also carefully examined the pleadings.

5. From the perusal of records we find that the punishment order was passed on 20.01.1994. The applicant in his letter dated 10.08.1995^{in (Ann A 3)} has himself stated that the said order dated 20.01.1994 was delivered to him on 28.07.1995. It appears that he has mentioned this date in order to establish that he has filed the appeal within the permissible time limit. In para 5.A of the O.A the applicant has pleaded that he^{was} only absent^{in from} for 10.04.1990 to 28.10.1992 . If that be so, it is expected that applicant after being declared medically fit would have reported for resumption of his duty. If that was so, he would have certainly known about the punishment order. The statements of the applicant in the light of above are contradictory and the applicant's^{plea} establish that he was not aware of the punishment order till 28.07.1995^{can not be relied upon}.

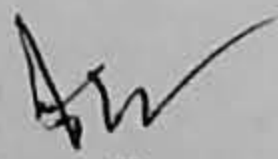
6. Even if^{it is} he accepted that the applicant got the information of the punishment order dated 20.01.1994^{on} and 28.07.1995 and


he filed appeal on 10.10.1995. It was required of the applicant to have approached this Tribunal within the period of limitation as specified under section 21 of the A.T. Act, which is one year in case his appeal remained undecided.

That has also not been done and the applicant has filed this O.A. only on 02.04.1997. without any delay condonation application. We would also like to observe that in the relief sought for there is no whisper about the appeal filed by the applicant. This establishes that the applicant has tried to concoct the story that, he received the punishment order on 28.7.1995.

7. For the reasons stated above, we are of the considered opinion that this O.A., besides lacking in merit, is liable to be dismissed on the ground of limitation. The D.A. is, therefore, dismissed as time barred.

8. There shall be no order as to costs.


Member- J.


Member-A.

/Anand/