

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO. 343 OF 2004.

ALLAHABAD THIS THE 12TH DAY OF May 2009

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS MANJULIKA GAUTAM, MEMBER-A**

Hausla, S/o Kafwaroo, aged about 46 years, Village and Post
Kui Bazar, District Gorakhpur.

.....Applicant

By Advocate : Shri R.K. Dubey

Versus

1. Union of India through its General Manager, Northern
Railway, New Delhi.
2. Divisional Rail Manager, Northern Railway, New Delhi.
3. Divisional Traffic Manager, Northern Railway, New
Delhi.
4. Station Manager, Northern Railway, Delhi Junction.

.....Respondents

By Advocate: Shri P Mathur

O R D E R

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J

Heard learned counsel for the applicant and learned
counsel for the respondents. Perused the pleadings and
documents on record.

2. Present O.A. was presented in the Registry alongwith
Application for Condonation of delay in filing O.A. as
contemplated under Rule 8 (4) of C.A.T. (Procedure) Rules
1987. The Bench required respondents to file counter affidavit

Am,

with respect to Delay Condonation Application as well as O.A. There is nothing on record to show that M.A. No. 1638/04 has ever been allowed. In view of the above, O.A. cannot be heard on merit.

3. We have perused the affidavit filed in support of said Application. The explanation given as contained in paras 3, 4 and 5 of the said Affidavit, which are reproduced below:-

- “3. *That it is submitted that after removal from service applicant came into great financial crisis and before him to maintain his family was great challenge and he was unable to go Delhi and to file OA in the Principal Bench of the Hon'ble Tribunal as he was advised that in his case original application will be filed in the principal Bench at Delhi as he was removed from service while working at Delhi Junction.*
4. *That it is submitted that however, the applicant again invited the attention of the Opposite Parties on the irregularities and illegalities committed in removing the applicant from service through a representation/legal notice dated 25.8.2003, but none of them paid any heed on the applicant's grievances.*
5. *That thereafter applicant made contact to his counsel in the present O.A. in the February 2004, he was advised that he could have file an original application against his removal from service in this Hon'ble Tribunal U/R 6 (2) of the C.A.T. (Procedure) Rules, 1987”.*

O.A. was presented in the Registry on 29.3.2004. Apparently there is no explanation regarding unauthorized absence between 31.10.2001 to 25.8.2003.

4. Respondents have filed counter affidavit and para 15 of it reads:-

- “15. *That it is significant to mention here that against the order of the Appellate Authority dated 31.10.2001, the applicant filed a revision before the REvisionary Authority namely Sr. Divisional Commercial Manager, which was also rejected vide order dated 13.3.2003”.*



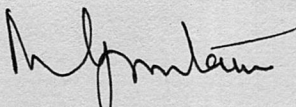
5. Applicant has filed rejoinder affidavit. In reply to the aforequoted para 15 of the O.A., which has been replied vide para 8 of the rejoinder affidavit, which reads:-

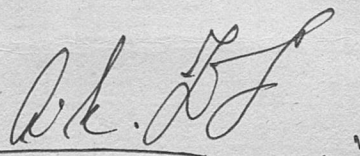
"8. That the contents of paragraph NO. 15 of the counter reply need no comment".

6. From aforequoted para 8 of the rejoinder affidavit, it is clear that factum of filing of revision and its rejection vide order dated 13.3.2003 has not been denied. Applicant has not come forward to contend that he was not communicated with the said order dated 13.3.2003. Admittedly order dated 13.3.2003 has not been challenged.

7. Revisional order not being challenged, no effective relief can be given, since the orders passed by Disciplinary and Appellate Authority have merged into revisional order-passed by a higher authority.

8. No merit in the O.A. and it is accordingly dismissed. No costs.


Member (A)


Member (J)

Manish/-