

43
2

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD

...

Registration T.A. No. 1534 of 1987

(arising out of Writ Petition No.5230/84)

Udai Bir Singh ... Petitioner

vs

Union of India and ors ... Respondents

Hon' Mr D.K. Agrawal, J.M.

Hon' Mr K. Obayya, A.M.

Civil Miscellaneous Writ Petition No. 5230 of 1984, on transfer to the Tribunal under the provisions of section 29 of the Administrative Tribunals' Act, 1985, was registered as T.A.No. 1534 of 1987 as indicated above.

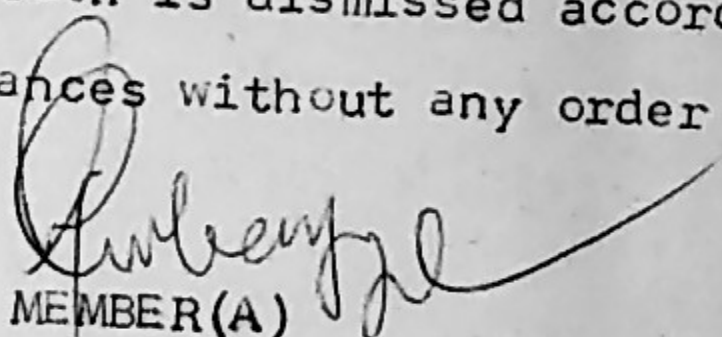
2. The facts briefly stated are that the petitioner namely, Udai Bir Singh holding the post of Gangman, at Kakori, district Hardoi, was suspended by an order dated 25-4-84/ 19-5-84. Soon after, the writ petition was filed for quashing the suspension order. During the pendency of the writ petition, the petitioner was removed, after an inquiry, by an order dated 30.7.85, alleged to have been served on the petitioner on 19.8.85. The petition was amended and the order of punishment i.e. removal from service was also challenged. It may be mentioned here that the order of removal although alleged to have been filed as Annexure-3 to the writ petition, does not appear on record. However, we have been allowed to peruse it by the learned counsel for the petitioner. It was in the possession of the learned counsel for the petitioner himself. The petitioner preferred an appeal on 3.9.85 against the order of punishment of removal. According to the

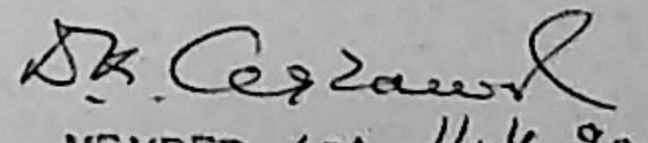
DK Agrawal

petitioner, the appeal has not yet been decided. The contention of the respondents is contained in para 17 of the counter affidavit. It is to the effect that no appeal has been received by them.

In any case, the memo of appeal is available as Annexure to the rejoinder affidavit filed by the petitioner. We have also perused the postal receipt dated 3.9.85 which was in the possession of the learned counsel for the petitioner. However, it is of no avail at this juncture to enter into an inquiry as to how and why the appeal was not received at the end of the respondents or that the respondents themselves have failed to decide the same. We are of the opinion that the respondents are duty bound to decide the appeal of the petitioner and the petitioner have a right to challenge the order of punishment only after the decision of the appellate authority.

3. In the above circumstances, we hereby direct the respondents to decide the appeal filed by the petitioner, memo of appeal being available on record, within 60 days hereof. If, the petitioner remains aggrieved with the decision of the appellate authority, he may resort to the legal remedy available to him under the Administrative Tribunals' Act, 1985, by means of an application under section 19 of the same. The petition is dismissed accordingly, in the above circumstances without any order as to costs.


MEMBER (A)


MEMBER (J) 11.4.90

(sns)

April 11, 1990

Allahabad.