

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

REGISTRATION O.A.NO.48/87

Sri Biswaroop ChatterjiApplicant

Versus

Union of India & OthersRespondents

Hon'ble Mr. D.K.Agrawal, J.M.
Hon'ble Mr. A.B.Gorthi, A.M.

(By Hon'ble Mr. D.K.Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals Act, 1985 is directed against an order passed under Rule 14(ii) of the Indian Railways Servants(Discipline & Appeal) Rules 1968 read with proviso (b) of Article 311(2) of the Constitution of India removing the applicant from service on the ground that it was not reasonably practicable to hold an enquiry. The applicant did not prefer any appeal. The applicant agitated the matter. The Supreme Court finally passed order on 11.7.85 providing an opportunity to the applicant to prefer an appeal within specified time i.e. upto 30.9.1985 against the impugned order dt. 15.9.1981. The applicant, however, did not avail the opportunity i.e. an appeal was not filed within the time limit allowed by the Supreme Court. However, it was alleged in para 10 of the claim petition that an appeal has been filed in pursuance of the directions of the Supreme Court. Copy of the Memo of Appeal is alleged to have been annexed as Annexure IV to this claim petition. However, the respondents disputed the facts that the appeal had been filed by the applicant. It was in these circumstances that the Bench of this Tribunal passed an order on 5.12.1990 that

D.K. Agrawal

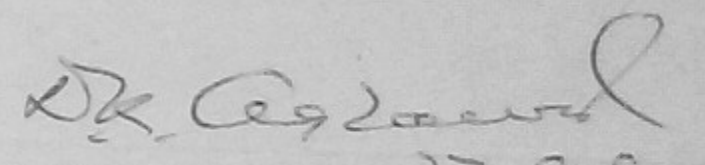
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an affidavit of Ram Dayal, Office Superintendent be filed admitting or denying the factum of signature on the Memo of appeal, Annexure IV to the claim petition. An affidavit has been filed today wherein Sri Ram Dayal has clearly stated that no official record existed of the receipt of the Memo of appeal. He has also stated that at the relevant time he was not concerned with the disciplinary matters. In the absence of proof to the fact that the appeal was filed, the only inference is that the applicant has not complied with the order of the Hon'ble Supreme Court dt. 11.7.1985. Consequently, this petition is likely to fail.

This petition is dismissed without any order as to costs.


MEMBER (A)


MEMBER (J) 27.8.91

Dated: 27th August, 1991

Allahabad

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