

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1182 of 1999

Allahabad this the 13th day of May, 2003

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mrs. Meera Chhibber, Member (J)

Rukum Singh, Son of Sri Jwala Prasad, resident of
Village Faizullapur, Post Saithal, District Bareilly.

Applicant

By Advocate Shri Anand Kumar

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izatnagar.
3. Senior Divisional Engineer-I, North-Eastern Railway, D.R.M. Office, Izatnagar.
4. Assistant Engineer(South), North Eastern Railway, Izatnagar.

Respondents

By Advocate Shri Anant Sthalekar

O R D E R (Oral)

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

In this O.A. filed under Section 19 of
the Administrative Tribunals Act, 1985, the applicant
has prayed for following reliefs;

- "(i) The Hon'ble Tribunal may be pleased to issue a writ of certiorari quashing the impugned letter dated 2.4.1986(annexure A-1) and letter dated 10.3.1987(annexure A-2).
- (ii) The Hon'ble Tribunal may be pleased to issue a writ of mandamus commanding the respondents to reinstate the applicant in service with all

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consequential benefits including back wages, seniority and promotion etc. with interest.

(iii) The Hon'ble Tribunal may be pleased to issue a suitable writ, order or direction which is deemed fit and proper under the facts and circumstances of the case.

(iv) Cost of the application may be awarded in favour of the applicant."

2. The facts of the case in short are that the applicant was employed under the respondent's establishment as Khalasi. He was suspended with effect from 14.03.1986. A show cause notice was issued to him. The applicant submitted his explanation on 29.03.1986 and the applicant was imposed the penalty of removal from service vide order dated 02.04.1986 (annexure A-1) under Rule (II) of Railway Servants (D&A) Rules, 1968. He filed an appeal on 02/05/86, which was rejected by order dated 10/03/87.

3. The applicant was removed from service for assaulting one Dr.V.P. Gupta, the Medical Officer. Dr.V.P. Gupta filed an F.I.R. and the Police registered a criminal case no.466 of 1988 under Section 332 of I.P.C. against the applicant. However, the applicant was acquitted by the Criminal Court by Judgment dated 04.11.1989.

4. The applicant in his O.A has pleaded that he was not re-instated even after his acquittal in the criminal case. As he was mentally disturbed and his family circumstances were bad, he could not get

proper treatment. However, his wife kept him under Ayurvedic treatment. According to the applicant, he was declared fit on 31.12.1998. He sent a representation alongwith fitness certificate given by an Ayurvedic Doctor for his re-instatement but, the respondents did not re-instate the applicant. The applicant was also not intimated about the decision of the respondents.

5. Shri Anand Kumar, learned counsel for the applicant appeared. When he was confronted with the question as to what was the applicant doing from 1989 to 1999 and how does he meet the question of limitation, Learned counsel for the applicant sought for time as he was not prepared today to argue on the point of limitation. The applicant's counsel was allowed to study the case and argue the same in the post-lunch session but, the applicant's counsel ^{he was adamant and} submitted that in case the Court was not inclined to adjourn the case, he would walk away and the applicant's counsel just walked away. We are not inclined to adjourn the case and therefore, we proceed to decide the O.A. under Rule 15 of the C.A.T. Procedure Rules, 1987.

6. Shri Amit Sthalekar, learned counsel for the respondents submitted that the present O.A. is grossly barred by limitation and the applicant has given no convincing reason for his inaction for a period of 10 years. Learned counsel for the respondents also submitted that the averments made by the applicant in para-4.11 of the O.A. that he has filed a revision, is not correct. This has been specifically denied by the respondents in para-15 of the counter-affidavit.

7. We have heard the counsel for the respondents and perused the records as well as the pleadings.

8. The sole ground for the delay of 10 years taken by the applicant is that he was mentally disturbed and he was under the treatment of an Ayurvedic Doctor. He was declared fit only on 31.12.1998 and once the respondents failed to take any action to reinstate the applicant, he filed this O.A. on 20/09/99. Nowhere in the O.A., the applicant has mentioned about the disease he was suffering from. He has also not annexed any certificate from the Specialist to convince us to accept that he was actually suffering from such a disease which required prolonged time of 10 years for treatment. The ground of illness taken by the applicant has no substance for condoning the delay in filing this O.A. and we are not inclined to accept this argument.

9. Admittedly the applicant was acquitted by the order dated 04.11.1989 passed by the Munsif Magistrate, Lower Criminal Court I, Bareilly. The applicant filed this O.A. only on 20.09.99 alongwith M.A.No.4470/99 for condonation of delay. The applicant has taken the ground of mental disturbance therein too. We are not convinced with the grounds taken and we reject the M.A.No.4470/99.

10. In the facts and circumstances the O.A. is highly time barred under Section 21 of the Administrative Tribunals Act, 1985 and is liable to be dismissed. The O.A. is accordingly dismissed as grossly time barred. No order as to costs.