

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER:- 401 OF 2002

TUESDAY, THIS THE 28TH DAY OF JANUARY, 2003

HON. MRS. MEERA CHHIBBER, MEMBER (J)

Bans Raj Beni Pandey (Unsound mind)  
s/o Late Shri Beni Pandey through  
his wife Smt. Kalindi Devi  
wife Sri Bans Raj Beni Pandey,  
r/o village and post nihula  
Tehsil Lalganj, Dist:- Azamgarh. ...Applicant.

(By Advocate:- Shri. A.K.S.Gautam)

V E R S U S

1. Union of India through  
General Manager  
Central Railway  
Bombay.
2. The Divisional Railway Manager  
Central Railway, Jabalpur (M.P)
3. Station Master Railway station  
Manikpur, Central Railway,  
Dist:- Chitrakoot (U.P) ....Respondents.

(By Advocate:-Shri D.Awasthi)

O R D E R

HON. MRS. MEERA CHHIBBER, J.M

This O.A has been filed by Shri Bans Raj Beni Pandey (Unsound mind) through his wife Smt. Kalindi Devi. They have sought a direction to the respondents to pay the provident fund, gratuity and other benefits to the applicant with interest. It is submitted in the O.A that applicant was given appointment in the Central Railway on 10-10-1963 to 16-6-1980. All of a sudden he missed from duty due to mental incapacitation and he remained absent from the duties. Disciplinary Enquiry was initiated against him but since the family members of the applicant





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were totally unaware of the situation, no reply was given. As such, *ex parte*, inquiry was conducted and vide order dated 2-4-1981 the applicant was removed from service (page 11). It is further submitted that when the family members came to know about the ~~missing~~ <sup>whereabouts</sup> of applicant, they approached the Department but no reply was given to them by the Department. In the year 1993 applicant came back to the house but was still <sup>m</sup>unsound mind. Therefore, his son gave an application to the DRM on 22-6-1993 with a request to provide them passes so that his father's treatment could be continued with (Annexure A-3), but no reply was given nor the applicant recovered from his mental state of mind. The applicant's son gave representations to the Ministry of Railways on 26-8-1998 and 20-1-2000 for redressal of his grievance (Annexure A-4) but till date no notice has been taken by the Department nor Provident Fund, Gratuity or other benefits of the applicant have been given to the family members, Therefore, finding no other alternative, they have filed the present O.A.

2. Respondents have opposed the O.A and have submitted that the O.A is barred by limitation as such is liable to be dismissed on this very ground and even otherwise the O.A is totally mis-conceived as the applicant was removed vide order dated 2-4-1981, after holding a proper inquiry in which due notice was given to the applicant but even though he had received the same he never responded to the notice or even to the findings served on him. They have also submitted that the plea taken by the applicant in this O.A that he was missing and had left the home is also not correct as, if that <sup>had been</sup> ~~had been~~ <sup>the</sup> ~~had been~~ position, the applicant could not have

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acknowledged the chargesheet and notice etc. which was duly done by him and even otherwise whatever dues were available to the applicant were already cleared as back as on 30-6-1981 which can be seen from Annexure CA-I. Therefore, according to them, this O.A is absolutely mis-conceived and is liable to be dismissed with costs.

3. I have heard both the counsel and perused the pleadings as well.

4. Admittedly, the applicant was removed from service vide order dated 2-4-1981 under Rule '6' of the D and A Rules after holding an inquiry due to unauthorised absence from 16-6-1980 onwards. The applicant had received the notice informing him about the inquiry and the chargesheet and admittedly he was given the copy of finding as well, but he never responded to the same. Therefore, he could <sup>not</sup> have any grievance about noncompliance with the Principles of natural justice. The applicant had not challenged the order of his removal by filing a proper appeal within the stipulated period and had given a representation, according to him, only on 22-6-1993, that is after 12 years from the date of his removal. The only ground taken by the applicant in this O.A is that applicant had become mad and was missing from the house. Applicant has not annexed a single document with the O.A to show that he was suffering from any mental illness or was being treated for the same nor have his family members annexed any FIR with the police to show that the applicant was missing. On the contrary, respondents have annexed the notices and other documents to show that they were duly acknowledged by the applicant at his





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house which clearly shows that the story about the applicant missing is <sup>8</sup> ~~is~~ <sup>at</sup> ~~equipped~~ <sup>cooked up</sup> story and is <sup>an</sup> ~~is~~ after thought.

In any case the representation which was given by the son of the applicant in 1993 to the DRM only stated that he <sup>may</sup> be provided passes so that he could get the treatment of his father from the Railway Hospital. The respondents have disputed this fact they were never given any such representation. It is seen there is no acknowledgment on the said representation dated 22-6-1993. Therefore, no reliance can be placed on such representation ~~as per~~

<sup>8</sup> ~~as~~ <sup>Even</sup> the representation which is stated to have been given to the Railway Minister on 20-1-2000 is also not acknowledged by any person. <sup>is typed</sup> So these are clearly ~~used~~ and annexed with the O.A to get over the limitation period. However even if it is taken for the sake of argument, even though it is disputed by the respondents, that applicant did give any representation to the Railway Minister in the year 2000 for grant of Provident Fund, Gratuity etc. of the applicant this would still not give any fresh cause of action to the applicant to file the present O.A in the year 2002..

The respondents have already explained that settlement dues of the applicant were already cleared as back as on 30-6-1981 which is evident from Annexure CA-I. Therefore, the present O.A is not only barred by limitation but is totally mis-conceived and is devoid of any merit.

Accordingly the O.A is dismissed with no order as to costs.



Member-J

Madhu/