

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 28th OF MARCH 2012)

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Ms. Javati Chandra, Member (A)

Original Application No. 116 of 2007.

Mahadeo son of Shri Buddhu Resident of Village Rasuali, Post
office Bajta Thapa, Tehsil Sadar, District Mirzapur.

..... Applicant

Versus

1. Union of India through General Manager, Northern
Railway, Baroda House New Delhi.
2. D.R.M Northern Railway, Allahabad.
3. Senior Regional Engineer, 1st, Northern Railway,
Allahabad.
4. Regional Engineer (Track), Northern Railway, Chunar
District Mirzapur.

..... Respondents

Present for Applicant : Shri S.N. Pandey

Present for Respondents : Shri A.K. Sinha

ORDER

By Hon'ble Mr. A.K. Bhardwaj, Member (J)

Heard Shri S.N. Pandey, learned counsel for the
applicant and Shri A.K. Sinha, learned counsel for the
respondents.

2. In terms of Rule 17 of the Railway Servants (Discipline
& Appeal) Rules, 1968, no appeal shall be entertained unless
the same is preferred within a period of 45 days from the date
on which a copy of order appealed against, is delivered to the

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appellant. In terms of proviso to said Rule, Appellate Authority may entertain the appeal even after the expiry of aforesaid period of limitation, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time. As is stated by the applicant in para 4 (M) of the O.A. removal order dated 2.4.2005 passed by respondent No. 4 was delivered to applicant on 11.4.2005 and within 45 days i.e. on 25.5.2005, he sent appeal dated 23.5.2005 to Appellate Authority by speed post. A copy of speed post receipt is placed on record as Annexure 2 to Original Application (Page 45).

3. Even in para 19 of the Counter Reply, respondents have admitted that the applicant preferred an appeal dated 23.5.2005 against his removal from service. In response to para 4 (M) of the O.A., Respondents have referred to para 19 of the counter reply. In para 19 of the reply, respondents have not denied positive assertion regarding date of delivery of order of Appellate Authority to applicant, rather they have specifically stated that the order of removal was served on 11.4.2005. As is noted hereinabove, the period of limitation for preferring appeal has to reckon from the date of penalty order served on the applicant by the delinquent Authority.

4. In the circumstances, we are of the considered opinion that Appellate Authority should not have rejected the appeal of the applicant on the ground of delay and should have considered the same on merits.

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5. In the circumstances, we quash the order of the Appellate Authority dated 10/21.4.2006 and remit the matter back to the said authority for deciding the appeal on merits.

6. Original Application stands disposed of. No costs.

T. Chandra

Member (A)

J. S. L. L.

Member (J)

Manish/-