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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 725 OF 1993
Cuttack this the 23rd day of September, 1999

Appanna

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23-9-99

23-9-99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.725 OF 1993
Cuttack this the 23rd day of September, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Sri Appanna
aged about 47 years,
S/o. Musaliah, at present working as
Gate-keeper at Level-crossing No.473/16
of South Eastern Railway under C.P.W.I., Baranga
Dist: Cuttack

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Applicant

By the Advocates : M/s.U.B.Mohapatra
S.K.Rath

-Versus-

1. Union of India represented through
the General Manager,
South Eastern Railway,
Garden Reach, Calcutta
2. Divisional Railway Manager,
South Eastern Railway,
At: Khurda Road,
PO: Jatni, Dist: Puri
3. Divisional Engineer(II)
South Eastern Railway,
Khurda Road Division,
At: Khurda Road,
Po: Jatni, Dist: Puri
4. Assistant Engineer
South Eastern Railway
At: Bhubaneswar Railway Station
Po: Bhubaneswar-751001

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Respondents

By the Advocates : Mr.R.C.Rath,
Addl.Standing Counsel

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, a Gate Keeper of Railway Level Crossing serving under S.E.Railway filed this application on 16.12.1993 for quashing punishment orders passed in two distinct disciplinary proceedings.

The first proceeding was initiated on 5.9.1989 for minor charge and on 8.11.1989 punishment of stoppage of increments for three years without cumulative effect was imposed on him vide Annexure-A series. No appeal appears to have been filed against this punishment.

The second proceeding was initiated through charges dated 14.12.1989(Annexure-A/2). These charges were enquired and the Inquiring Officer submitted an exhaustive report under Annexure-A/4. The disciplinary authority, through order dated 6.12.1990 (Annexure-A/5) withheld increments for three years without cumulative effect. On 30.12.1990 the applicant preferred an appeal before the Divisional Railway Manager, S.E.Railway, Khurda Road (Annexure-A/6). This appeal was dismissed on 17.6.1991 vide Annexure-A/7. Thereafter the applicant preferred further appeal the General Manager on 17.7.1991 (Anexure-A/8).

2. So far as first proceeding is concerned it relates to his negligence in guarding the Level Crossing. The second proceeding relates to utterances of abused ~~the~~ words and misbehaviour ^{with} to his higher officers of the Department. According to applicant, these two proceedings have been falsely initiated against him and the findings arrived at in the proceedings are based on no evidence. The orders passed by the disciplinary authority as well

as the appellate authority reflect non-application of mind.

3. The Department in their counter justified their actions in drawing the proceedings and the consequent punishment imposed on the applicant. No procedural lapses have been committed in conducting the disciplinary proceedings to the prejudice of the applicant. The facts constituting the charges are proved and have been supported by the evidence adduced during the proceeding.

4. We have heard Shri S.K.Rath, learned counsel for the applicant and Shri R.C.Rath, learned Addl. Standing Counsel appearing for the Railway Administration. Also perused the records.

5. Though ~~we are of the view that~~ the counter is silent in regard to maintainability and limitation, we are of the view that this application is legally defective on this score.

As earlier stated, the application has been filed for quashing punishment orders passed in two distinct disciplinary proceedings. Under Rule-10 of Central Administrative Tribunal(Procedure) Rules, 1987, an application shall be based upon a single cause of action and may seek one or more relief(s) provided ^{they} they are consequential to one another. In this application the relief prayed is prayed against two distinct cause, of actions which are noway consequential to one another. Hence this application, according to us, is barred under this Rule-10 of the C.A.T.(Procedure) Rules, 1987.

Coming to the ~~another~~ point of limitation, the punishment order in the first proceeding was passed on 8.11.1989, ~~though~~ There is nothing on record of any appeal

having been filed against this order. Hence under Section 21 of the Administrative Tribunals Act, an application for quashing that punishment order should have been filed at least by 8.11.1990. However, this application has been filed on 16.12.1993 without any explanation for this abnormal delay for more than three years. The second proceeding ended in punishment imposed by the disciplinary authority on 6.12.1990. Appeal against this order was dismissed on 17.6.1991. Hence, at least by 17.6.1992 the applicant should have approached the Tribunal for quashing that punishment order. It is true, as the application reveals, he preferred further appeal to General Manager, S.E.Railway on 17.7.1991. But there is no provision under the Railway Servants(Discipline & Appeal) Rules, 1968 for preferring such a second appeal. Even then, he should have waited for six more months from 17.7.1991, i.e. till 17.1.1992 and approached the Tribunal within one year, i.e. by 17.12.1992 as required under Section 21 of the Administrative Tribunals Act. There is no explanation whatsoever, in preferring this application not before 17.12.1992. This application is also barred by limitation.

6. On merits also we find that the impugned orders need no interference. The first proceeding for a minor charge was considered and punishment imposed under Annexure-A/1. We do not see any legal infirmity in that order. In the second proceeding various witnesses were examined during enquiry. Inquiry report consisting of six types of charges is exhaustive and well discussed. The findings are based on evidence adduced during enquiry. Even the findings of the disciplinary authority are also

based on ~~some~~ ^{so} reasons, and ~~also~~ ^{so} also the order of the appellate authority.

In the result we hold that this application is without any merit, besides being not maintainable ~~and~~ and barred by limitation. The same is therefore dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.9.99

23.9.99
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO