

7

7

O. A. No. 397/1995.

ORDER DATED 14-12-2001.

It was mentioned on behalf of the Learned Counsel for the Applicant that the matter may be taken up after lunch and accordingly time was allowed. After lunch, when the matter was taken up for hearing, it was found that the counsel for the applicant and his associate are absent and Shri R.C. Rath, learned ASC appearing for the Respondents is present. Since at the request of the learned counsel for the applicant, the case was adjourned to be taken up after lunch, and learned counsel for the applicant and his associate are absent, without any request for adjournment, the matter is taken up for hearing. We have heard Shri RC Rath, learned ASC appearing for the Respondents and have also gone through the pleadings of the respective parties.

The applicant in this Original Application has prayed for a direction to the Respondents to dispose of the appeal preferred by the applicant, which is pending with the Respondent No. 3 within a stipulated period. In this case, it is seen from the cause title that the Divisional Railway Manager, South Eastern Railway, Chakradharpur Division is the Respondent No. 3 but the representation/so called appeal which is stated to have been filed by the applicant, at Annexure-2 (page-12) was not addressed to the appellate authority but to the Senior Divisional Elect. Engineer (RSO), Chakradharpur on 3.1.1989. But it is found from the cause title that the Sr. Divisional Elect. Engineer (RSO), Chakradharpur, to whom the applicant has addressed the so called representation/appeal

7

8

8

has not been made as a party in this case. Further more, it was pointed out by Shri R.C. Rath, learned counsel for the Respondents that when the applicant signed the verification i.e. on 3.7.1995, he was not working at Bandamunda and he has been transferred to Villai and accordingly has been relieved from Bandamunda w.e.f. 15.5.1995. Learned ASC for the Respondents has also raised the question of maintainability of this O.A. and limitation. Further it is found from Annexure-2 that the so called representation/appeal was made by the applicant on 3.1.1989. This application was presented before this Tribunal on 4th July, 1995. In that view of the matter, learned ASC for the Respondents has submitted that the application is not maintainable on the ground of limitation.

After going through the pleadings of the respective parties and the contentions raised by learned ASC, we are of the view that this application is seriously barred by limitation and hence is not sustainable in the eye of law. Further more, since the applicant has already been transferred to Villai and relieved from Bandamunda by the date of signing of the verification, this Tribunal has also lost jurisdiction to entertain this O.A.

No application is pending before Respondents.

In that view of the matter, at this stage, we are not inclined to interfere in the matter. Hence the O.A. is rejected. No costs.

Somnath Somji
(SOMNATH SOMJI)
VICE CHAIRMAN

Nityananda Prusty
(NITYANANDA PRUSTY)
MEMBER (JUDICIAL)