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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 405 OF 1995
Cuttack this the 18th day of ~~September~~/2000

October

B.B. Bharosa

...

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

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 405 OF 1995
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CORAM:

October

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

...
Mr.B.B. Bharosa, S/o. Late S.C.Bharosa,
At - Gopalpur, P.O - Jainagar, Dist-Midnapur
West Bengal
At present Electric Locl Shed,
At/PO - Bandamunda, Dist - Sundargarh
Working as Electric Chargeman (B)
South Eastern Railway

...

Applicant

By the Advocates

M/s.D.S.Mishra
S. Behera

-VERSUS-

1. Union of India represented through
it's Secretary,
Railway Board, New Delhi
2. General Manager, S.E.Railway
Garden Reach, Calcutta-43
3. Divisional Railway Manager
South Eastern Railway
Chakradharpur Division
At/PO - Chakradharpur
District - Singhbhum, Bihar
4. Senior Divisional Electrical Engineer(TRS)
South Eastern Railway, At/PO- Bandamunda
District - Sundargarh
5. Assistant Electrical Engineer(One)
Traction Rolling Stock, S.E.Railway,
District - Sundargarh

...

Respondents

By the Advocates

M/s.D.N.Mishra
S.K.Panda

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, an employee
under S.E.Railway files this Original Application on 18.7.1995
for quashing the order of punishment under Annexure-3 dated
24.1.1992 of the disciplinary authority stopping increments
(non-cumulative effect for two years). His case is that on
22.11.1991 (Annexure-1) he was served with charges and pursuant

to those charges he submitted written statement on 10.12.1991 (Annexure-2). But without conducting any inquiry this impugned order of punishment was passed. He preferred appeal dated 23.2.1992 (Annexure 4). In spite of reminders dated 10.7.1993 and 1.2.1994 (Annexure 5 & 6 respectively) the appeal remained undisposed of. Thereafter he filed this Original Application.

2. The Department in their counter took the plea that charges pertain to minor penalty for lack of supervision. Since under the relevant (Disciplinary & Appeal) Rules, no inquiry is necessary in case of a charge for imposition of minor penalty no inquiry was conducted. The impugned order of punishment was passed after considering the written statement of the applicant under Annexure-2. There is no procedural lapse and principles of natural justice have also not been violated. No appeal memo dated 23.2.1992, as mentioned under Annexure-4 was ever received. However, the appeal memo dated 26.8.1993 (Annexure-4/A) was received, but the same was not within the provisions under the (Disciplinary & Appeal) Rules to be treated as an appeal. Still then, considering that Memo impugned order under Annexure-3 has been cancelled in order dated 3.12.1996 (Annexure-R/1) and the entire proceeding has been dropped without prejudice to the right of the Administration to issue fresh charge sheet.

3. No rejoinder has been filed by the applicant.

4. We have heard Shri D.S.Mishra, the learned counsel for the applicant and Shri D.N.Mishra, learned Standing Counsel appearing for the Railway Administration and perused the records.

5. We feel this Original Application can be disposed of without entering into the merits. The impugned order of

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punishment was passed on 24.1.1992. Even if the applicant's case is believed, he preferred departmental appeal on 23.2.1992, but this application was filed on 18.7.1995, i.e. about three years and six months after the impugned punishment order was passed and three years and five months after the appeal was preferred. Obviously, under the provisions of Section 21 of the Administrative Tribunals Act, 1985, this Original Application is hopelessly barred by time as the Application, at the latest was to have been filed either on or before 23.8.1993 and definitely not later than that. In other words there is a delay of one year and 11 months in preferring this Original Application. No petition has been filed seeking condonation of delay along with an affidavit as required under Rule-8(4) of the C.A.T.

(Procedure) Rules, 1987. Hence, question of condoning delay, even if delay deserves to be condoned, does not arise. Of course in the Original Application the applicant averred that he sent reminders on 10.7.1993 and 1.2.194. Law is well settled even repeated reminders/representations will not save limitation. Thus this Original Application can be dismissed as barred by time.

6. As the Application is held barred by time, we do not like to consider the case on merits including the effect of order of the appellate authority cancelling the proceedings in order dated 3.12.1996 under Annexure-R/1.

7. In the result, Original Application is dismissed as barred by time, but without any order as to costs.

(Signature)
(SOMNATH SOM)
VICE-CHAIRMAN

(Signature) 11.12.2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//