

5 OA-664/98

15. ORDER DT. 5.9.2000.

on behalf of learned counsel for the applicant Mr. R.C. Dash, it is submitted by Shri P.K. Panda that learned counsel for the applicant is ill and he wants an adjournment. This is a 1998 matter. In view of this, the matter is adjourned to be listed in its turn.

Vice-Chairman
Member (Judicial)

16. ORDER DATED 03-11-2003.

Heard Shri S.K. Mishra, learned Counsel appearing for the Applicant and Mr. S. Ray, learned Additional Standing Counsel appearing for the Railways/Respondents and perused the materials placed on record.

The Applicant who joined the Respondent-Department as Gangman in the year 1970 was removed from service by the Respondents vide their order dated 10.12.1986 at Annexure-2 on the ground of absence from duty without leave. The Applicant's case is that he had fallen sick and therefore, remained away from his duty although the Applicant could not make any averment as to why he could not subject himself to medical treatment at Railway hospital, during the period of his illness. The Applicant has also submitted that after he was finally cured of his illness, he reported to ADMD, Balasore for fitness certificate and then he joined his duty on 18.3.1986. Soon thereafter, he was served with a major penalty charge-sheet by the Respondents vide Annexure-2 dated 10.12.1986 which resulted in his

29.6.00
not filed

Rejoinder not filed.

For orders.

29.6.00 Bench

For hearing

29.6.00 Bench

For filing pl.

4.9.00 Bench

1. Addl. counter filed - copy not served.

2. M.A. 777/98 with objection for consideration copy of objection to M.A. not served.

3. For hearing

DS 31/10/03 Bench

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CA. 664/98

removal from service.

The Respondents by filing a counter has submitted that this Original Application is grossly barred by the law of limitation; as the cause of action arose way back in the year 1986 when he was removed from service. That apart on merit of this case, they have submitted that the Applicant had repeatedly remained unauthorisedly absent from his duty right from 1977 to 1986 and in some of the years during this period, he had been absented from all the days of the year. It is in consideration of his lack of devotion to duty they had served on him a major penalty chargesheet and after giving all opportunity to defend himself was removed from service.


We have carefully considered the rival contentions of the parties. Although we are inclined to take a lenient view in the matter of limitation but we find no merit in this case because the Applicant has miserably failed to explain as to why he was in ^{to} habit of remaining absent from duty for years together and also prior to 1977 or that whenever, he was ^{to} sick, he had never got himself admitted in the railway hospital. From all these things, it is apparent that the Applicant ^{had} not subjected himself to the normal discipline of the organisation and therefore, we see no reason to interfere in the decision that they had taken in removing the Applicant from

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Free copies of
final order
dt. 3.11.03 issued
to counsel for
both sides.

service by order dated 10.12.1986. Accordingly,
this original Application is dismissed. No costs.


Vice-Chairman 3/11

DS
7/11/03


CO-2

Member (Judicial)