

8A 17/2000

NOTES OF THE REGISTRY

Dt. 18.8.2000

The learned counsel for respondent pray for time to file counter. In spite of several chances the App. has not filed the counter. Last chance is over.

Put up to Bench for further proper.

REGISTRAR
18/8/2000

Counter not filed

For and

21.8.2000

DL

Counter not served.

18/8/2000 Berch

JWM

Rejoinder not filed.

29/8/2000 Berch

Rejoinder not filed.

16/11/01 Berch

Rejoinder not filed.

20/12/01 Berch

ORDERS OF THE TRIBUNAL

Order dated 3.5.2001

Learned counsel for the petitioner and his Associates are absent when called nor has there been any request made on their behalf seeking adjournment. In view of the fact that pleadings in this case have been completed it is not possible to drag on the matter indefinitely. We have, therefore, heard Shri S.Ray, learned Addl. Standing Counsel for the respondents and perused the records.

In this Application the petitioner has prayed for reinstatement in service on compassionate grounds. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed.

Briefly stated the case of the applicant is that while he was working as a Switchman in Dhanmandal in 1981, he was allotted with a quarters and after he was transferred to Baitarani and thereafter to Tapang he was directed to vacate the railway quarters, but the quarters could not be vacated due to illegal occupation of one Parbati who styled herself as the wife of the applicant. The petitioner has stated that approached the lady to get the quarters vacated, but she became violent and therefore, quarters could not be vacated. Applicant has stated that the departmental authorities removed him from service w.e.f. 26.3.1985 in order dated 14.3.1985, at Annexure-1, without conducting an enquiry. Applicant has stated that at the relevant time he was unmarried and the lady Parbati was not his legally married wife and he had no connection with the lady and therefore, order, removing him from service is illegal. He has further stated that being aggrieved with the order of removal from service, he approached the railway authorities on 1.5.1989, and 26.6.1992, but without any result. In the context of the above he has come up with the prayers referred to earlier.

Respondents have pointed out that the applicant has been removed from service in dated 14.3.1985 and he approached the Tr. after a lapse of 15 years. It has been

Co
Sd/2

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoinder not filed.

Bench

23/3/01

For Admonition

Bench

20/4/01

for admission and
final hearing

Bench

108
25/2/01

J J M

that stated in the petition filed for condonation no justifiable grounds have been urged for condoning delay. In view of this, it is submitted that the Original Application being barred by limitation should be rejected at the very outset. As regards merits, Respondents have stated that as the matter is more than one and half decades old, the disciplinary proceedings file has been eaten away by white ants and record is not available. It is only from the Personal File of the applicant the details of the case could be ascertained. It is stated that while the applicant was working as Switchman, he was transferred from Dhanmandal to Tapang, w.e.f. 10.12.1981. But after his transfer from Dhanmandal, the applicant did not vacate the railway quarters at Dhanmandal nor did he seek any permission from the authority for retention of railway quarters and occupied the quarters for years together. It is stated that because of this, the disciplinary proceedings were initiated against him and an enquiry was conducted. In course of enquiry it was found, on the basis of report of the Station Superintendent of Dhanmandal that instead of vacating the quarters, the applicant gave a false declaration to the Inquiring Officer that he had vacated the quarters on 10.12.1983, but it was found that he retained the quarters and his wife was in possession of the same. Respondents have stated that on the basis of the findings of the Inquiring Officer the applicant was removed from service. It is stated that the order of punishment was issued much before the decision of the Hon'ble Supreme Court in the case of Ramzan Khan came and therefore, it was not incumbent on the part of the Disciplinary Authority to supply to the applicant a copy of the inquiry report. With regard to stand of the applicant that lady occupying the quarters in question is not his wife, the Respondents have enclosed a copy of

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ORDERS OF THE TRIBUNAL

affidavit, sworn by the applicant before the Executive Magistrate which is at Annexure-R/6, stating that Parbati Patnaik is ^{his} legally married wife. On the above grounds respondents have opposed the prayer of the applicant.

From the pleadings of the applicant himself it is seen that the order removing the applicant from service was issued on 14.3.1985 and the applicant has approached the Tribunal after 15 years. In the petition for condonation of delay applicant has merely stated that after his removal from service he filed series of representations, but did not get any favourable orders and that is why there has been delay in approaching the Tribunal.

Law is well settled that repeated representations will not save the period of limitation. In this case the petitioner has approached the Tribunal after 15 years of the order of removal from service was issued. In view of this we find that no reasonable ground has been made out in the petition for condonation of delay.

For the reasons discussed above, we hold that the Original Application is barred by limitation and therefore, the same is accordingly rejected, but without any order as to costs.

MEMBER (JUDICIAL)

Nirmal K. Nayak
VICE-CHAIRMAN
3.5.2010

Four copies of the order of 3.5.2009 issued to counsels for both sides.

DR. S. S. Patnaik

R. S. Patnaik
S. S. Patnaik