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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For Admissibility of
interim orders and
reg. limitation
21.4.03

Beorch

On Memo.

2) For admission of
interim orders and
reg. limitation.

By
soy/03

Beorch

2. ORDER DATED 01-05-2003.

Heard Mr. B.K. Sharma, Learned Counsel appearing for the Applicant and Mr. R.C. Rath, Learned Standing Counsel for the Railways; on whom a copy of this Original Application has been served.

Applicant, having been removed from service in a disciplinary proceedings, after serving the Railways for long 30 years; preferred an appeal and reminders and no heed having been paid to his grievances/ appeal, he has filed the present Original Application under section 19 of the Administrative Tribunals Act, 1985. In this Original Application, the applicant has tried to explain the delay in approaching this Tribunal. It is the case, as disclosed, by the counsel for the applicant, that having faced the removal from service, he was economically crippled down; for which he could not take prompt step to challenge the removal order and delayed in approaching this Tribunal, therefore, ought to be excused; especially, on the face of his repeated representation to his authorities. Although repeated representations cannot cure the delay and laches, but in the peculiar facts and circumstances of the case, especially, when the applicant has faced the order of punishment of removal from service, even after serving the railways for long 30 years, the Respondents are, hereby, directed to pass consequential orders on the

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appeal of the applicant; notwithstanding the delay in approaching the Appellate Authority; on merit,

Before parting with this case, on perusal of the materials placed on record, it appears that the punishment of removal, (for unauthorised absence of five months, at the fag end of his , after putting 30 years of dedicated service) ~~appears~~ to be disproportionately high; which aspect the Appellate Authority should look into while disposing of the appeal; especially on the face of the judgment rendered by the Hon'ble Supreme Court of India in the case of

B.C. CHATURVEDI VRS. UNION OF INDIA AND OTHERS

(reported in 1996 SCC (L&S)80; AIR 1996 SC 626).

Instead of throwing him out of employment by dismissal/removal, the authorities ought to have, at the best, imposed a punishment of compulsory retirement. While giving direction to the Respondents to pass consequential orders on the appeal of the applicant, within a period of 120 days from the date of receipt of a copy of this order; liberty is also hereby granted to the applicant to make/canvas additional grounds to his appeal; which he should do within a period of 15 days from now.

With the aforesaid observations and directions, this Original Application is disposed of at the stage of admission.

Send copies of this order to the Respondents alongwith paper book and free

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Copy of order dt 1/5/03
a/w a.o. copy issued
to all the respects. by
Post.

The same copy of
order issued to the
counsel for both
sides.

1/5/03
S. Ch.

1/5/03

copies of this order be given to learned counse
for both sides.

M. Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
01/05/2003