

3

O.A. No. 772 OF 2006.

Order dated 15th November, 2006.

Applicant a Railway employee having faced the order of punishment of dismissal under Annexure-A/5 dated 25.08.2006, preferred appeal under Annexure-A/6 dated 19th September, 2006. It is the case of the Applicant that he has specifically prayed before his appellate authority that pending decision on his appeal, he may be allowed to work in non-sensitive post of the Railways. According to him, under the Rules, the Appellate Authority has to take a decision on the Appeal within a period of thirty days. As the Respondents/Appellate Authority did not communicate him anything either on the merit of his appeal or on the interim prayer, he has approached this Tribunal in the present Original Application under section 19 of the Administrative Tribunals Act, 1985.

Section 20 of the Administrative Tribunals Act, 1985 provides as under:

**“20. APPLICATION NOT TO BE ADMITTED
UNLESS OTHER REMEDIES EXHAUSTED –**

**(1) A Tribunal shall not ordinarily admit an
application unless it is satisfied that the applicant**

2

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had availed of all the remedies available to him under the relevant rules as to redressal of grievances.

(3) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or the person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

3. For the purposes of sub sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

But the distinct feature of the matter is that according to the Applicant, under the Rules, the Appellate Authority has to take a final view on the appeal preferred by a Railway employee. It is seen that in the meantime two months are going to

5

expiry from date of filing of the appeal. For the ends of justice, with the consent of Learned Counsel appearing for both sides, this Original Application is disposed of at this admission stage with direction to the Respondents especially to Respondent No. 6 to whom the Applicant has preferred his appeal to decide the appeal of the Applicant and pass a reasoned order within a period of 30(thirty) days from the date of receipt of copies of this order and communicate the result thereof to the Applicant. The Appellate Authority is also free to decide on the interim protection prayed for by the Applicant in his appeal. There shall be no order as to costs.

Send copies of this order along with copies of the OA to the Respondents and free copies of this order be given to Learned Counsel for both sides. As prayed by the Learned Counsel appearing for the Applicant copies of the order along with copies of the OA be sent to the Respondent No.6 by SPEED POST at the cost of the Applicant; for which Learned Counsel appearing for the Applicant undertakes to deposit the Postal requisite by 17.11.2006.

BBT
Member(A)


Vice-Chairman