

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoinder

Rejoinder not filed.

Registrar

25/1/05

25/1/05

Order dt. 27.1.05

At the request of
Ld. Counsel for the
applicant, adjourned to
3.2.05 for filing of
rejoinder.

27-1-05

REGISTRAR

Rejoinder not filed.

Registrar

2/2/05

2/2/05

Order dt. 3.2.05

Rejoinder is filed
to-day with copy to
other side. Pleadings
are complete.

Let the matter
for final hearing
after showing of an
Ready List.

3/2/05
REGISTRAR

For hearing

12/2/05

Bench

23.03.05

None appeared for the Parties.

Adjourned to 24.03.05

member

Chairman

24.03.05

None appeared for the Parties.

Call on 28.03.05

member

Vice-Chairman

Order dated 28.03.05

Call this matter on 01.04.2005

Individual Member

Chairman

Order dated 1.4.05

Heard Mr.S.Pattnaik, Ld.Counsel for the
applicant and Mr.C.R.Mishra, Ld.Counsel for
the Respondents.

The applicant in this O.A. has faced an
order of removal from service for his absence
from duties for the period from December, 1987
to January, 1988. He has alleged that he was
removed from service by imposing punishment
which is rigorous, harsh and drastic in nature,
by way of victimisation and that he was given
no opportunity in the enquiry to defend his
case. He has further submitted that he being
a Group D employee, he was not sufficiently
aware of the Rules which stood in the way of
his making effective representation to the
authorities to reconsider the quantum of puni-

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As per order dt. 20/2/05
 notice/along with order
 dt. 21/2/05 issued to
 applicant on by post.

21/2/05
 S.A.

My
 21/2/05

For hearing.

My Bunch
 22/3/05

For hearing.

My Bunch
 31/3/05

shment imposed on him. By referring to Railway Board's letter supposed to have been issued on 19.6.97 wherein it is provided that Group 'C' and 'D' Railway servants who were dismissed/removed/compulsorily retired may apply for a revision of the penalty imposed on them to the General Manager/DRM under whose control they are working.

In pursuant to that he had preferred a representation to Res.No.2 through proper channel for revision of the penalty which was imposed on him by order dtd.17.12.97 but the same was rejected by Res.No.3 without forward-
^{confident}ing it to Res.No.2 who was alone to revise the order. With the above frame, he had approached this Tribunal with a prayer to direct the Respondents to take steps to revise the penalty imposed on him and to quash the order of removal.

The Respondents have opposed the application. They have submitted that the applicant while on duty had remained absent from duties and he ^{habitual absences} has a hostile attitude in this respect. As he remained absent without any intimation from 12.10.87, he was issued two warning letters by Sr.DME (Diesel) Bondamunda by Regd. Post which were duly acknowledged by the applicant, ^{Inspite} for that he did not improve his conduct and he never joined the duty which resulted in initiation of disciplinary action against him. He has duly received the charge Memo issued to him by the Respondents under Rule 9 of Railway servants (D & A Rules 1968) along with the letter dtd. 1.3.88. The applicant did not participate

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O.A. 1187/02

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ⁱⁿ
~~any~~ enquiry in spite of being noticed to appear before the enquiry ^{officer} Committee on the appointing date. The Disciplinary Authority imposed the punishment of removal from service on the applicant vide his order dtd. 7.4.88 (Annexure 1). It is the submission of the Respondents that the applicant did not prefer an appeal against the punishment order imposed on him before the appellate authority. They further stated that the applicant had made a representation on 17.12.97 before the DRM Chakradharpur Division for revision of penalty imposed on him on the strength of Railway Board's letter dtd. 19.6.97 which was considered and rejected by Sr. Divisional Mechanical Engineer (Diesel), Bandamunda (Annexure-R/4) who was the authority delegated to deal with the cases of Group D officials in revisional matters by the General Manager. The Ld. Counsel for the applicant has made an appeal before us for giving direction to the Respondents to reconsider his case. The Ld. Counsel for the Respondents have drawn our notice to the fact that the official ^{has} ~~have~~ ^{been} ~~been~~ barely worked for 5 years ~~and~~ he having/appointed in the year 1983 as regular Khalasi and his conduct was not ~~even~~ satisfactory on the ground of his habit of frequent absence without intimation. He has also pointed out that his representation for revision of the punishment order was duly considered by the authority competent for this purpose, we do ⁿ not find any merit and it leads to opportunity for any further consideration of the matter. He has

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also pointed out that the punishment order was issued on him on 7.4.98 against which he never bothered to file an appeal and revision application when he filed it was 8 years after the imposition of punishment. From the above chronology given, it would appear that the allegation brought against the applicant about his indifferent attitude cannot be disbelieved. The Ld. Counsel for the Respondents further pointed out that the applicant has also knocked at the door of the Tribunal for too late, about six years after passing of the order of the revision authority. He has further submitted the question of limitation should also be considered by the Tribunal while passing the final order.

Having heard both the parties and having regard to the facts and circumstances of the case, there appears to be very little scope of judicial intervention as in disciplinary matters the Courts or Tribunals are not to act as Appellate Courts.

That being the position of law and the applicant having not been able to bring before us any deficiencies in the procedure followed by their Respondents in the matter of disciplinary proceedings initiated against him ^{and the delay that has} and that ~~had~~ occurred since 1988 in his approaching ~~for~~ the revision authority or this Courts makes it ^{difficult} ~~a~~ out of preposition to come to rescue in any way. In the aforesaid premises, we see no scope for ^{judicial} ~~limitation/~~ ^{intervention} interpretation. Accordingly this O.A. is

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Copy of order dt. 1.4.05
issued to the counsel
for both side.

12/6/14
S.O.

disposed of as being without any merit.

Over and above this O.A. is barred by
limitation.

G. S. Anandappa
Member (J) 1/4

[Signature]
Vice-chairman 1/4

1177

6/4/05