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O A. No. 101 of 2007

Vijaya Kumar Ray Applicant


Vrs.

Divisional Railway Manager,

S.E.Railway and others Respondents

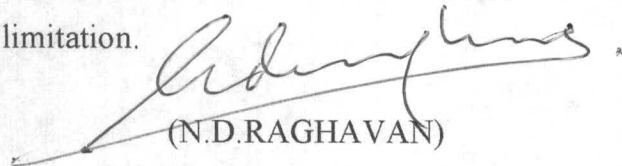
ORDER DATED 19/5 SEPTEMBER 2007

This Original Application was filed on 19.5.2006. On scrutiny the Application was found to have suffered from defects. After removal of defects by the learned counsels for the applicant, the application was registered as O.A. No.101 of 2007 only on 15.3.2007. Thereafter the O.A. Was placed before the Bench for considering the question of admission on 26.7.2007 when the learned counsels M/s B.K.Panda, M.R.Khatua and T.R.Das for the applicant remained absent on account of Advocates' strike on Court work before this Bench on the basis of purported CAT Bar Association resolutions. In this connection, I would like to refer to the decision of the Hon'ble Supreme Court in the case of **Ramon Services Private Limited vrs. Subhash Kapoor and others, reported in JT 2000 (Suppl.2) S.C. 546**, wherein at paragraphs 24, 27 and 28 Their Lordships have held that no Advocate could take it for granted that he would appear before the Court according to his whims and fancies or conveniences. It would be against professional ethics for a lawyer to abstain from the Court when the cause of his client is called for hearing or further proceedings. In appropriate cases, the Court itself could pass effective orders for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal profession and the defaulting Courts might also be contributory to the contempt of the Hon'ble Supreme Court. Keeping in view the above decision of the Hon'ble Apex Court, I perused the records and reserved the order.



2. Perusal of the record reveals that the applicant, who was formerly working as Traffic Postman in the S.E.Railway, has filed this O.A. praying for quashing the order of punishment dated 31.5.2003 removing him from service with 2/3rd compassionate allowance and the order of appellate authority dated 6.11.2003 (Annexure 4) enhancing the punishment to 'dismissal from service' with immediate effect. It appears from Annexure 5 series that the applicant being aggrieved by the appellate authority's order dated 6.11.2003, preferred a petition on 10.6.2004 and another on 6.7.2005 before the Divisional Railway Manager, South Eastern Railway (now East Coast Railway), who is impleaded here as Respondent No.1. If the applicant's first petition dated 10.6.2004 (Annexure 5 series) was not considered and disposed of within six months, the applicant should have approached the Tribunal within one year from the date of expiry of six months from 10.6.2004. The present O.A. filed on 19.5.2006 is barred by limitation under Section 21(1)(b) of the Administrative Tribunals Act, 1985 in as much the six months' period from 10.6.2004 expired on 9.12.2004 and the O.A. should have been filed by 8.12.2005, i.e., within a period of one year from 9.12.2004. The applicant has not filed an application explaining the delay and seeking condonation of delay in filing the O.A. In this view of the matter, the Original Application is rejected, as being barred by limitation, which, however, shall not stand as bar for Respondent No.1 to consider and dispose of the applicant's petition dated 10.6.2004 (Annexure 5) by a reasoned and speaking order at the earliest in view of ~~long~~ its long pendency *for years. etc.*

3. With the aforesaid observation, the Original Application is rejected as being barred by limitation.


(N.D. RAGHAVAN)

VICE-CHAIRMAN

*fix for pronouncement
on 19.09.07 at 230 PM.
lde.*