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O.A.No. 680 of 2010

Bijay Kumar Patra.....Applicant

VS

Union of India & Ors.....Respondents.

Order dated: 11.03.2011

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (Admn.)

&

Hon'ble Shri A.K.Patnaik, Member (Judl.)

This Original Application has been filed by the applicant challenging the order of punishment vide Annexure-A/6 and the order of the Appellate Authority vide Annexure-A/8 rejecting his appeal on the ground of delay only. In the circumstances, he has prayed to quash the impugned orders at Annexure-A/6 and A/8 dated 06.03.2008 and 4.10.²⁰¹⁰~~2008~~ respectively.

2. The Respondents have filed their counter opposing the prayer of the applicant. The only ground urged by the Respondents in support of their contention is that appeal preferred against the order of punishment is hit by the provisions contained in Rule 25 of CCS(CQA) Rules, 1965. In the circumstances, the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

3. We have heard Sri N.R.Routray, Ld. Counsel for the applicant and Sri P.R.J.Dash, Ld. Additional Standing Counsel appearing on behalf of the Respondents.

4. Sri P.R.J.Dash, Ld. Counsel for the Respondents emphatically submitted that there being abnormal delay in preferring appeal against the order of punishment the Tribunal should not interfere with the matter. On the contrary, Sri N.R.Routray submitted that the applicant by filing Annexure-A/7 dated 09.04.2010 has explained the delay before the Appellate Authority and, therefore, it would be unfair and unreasonable if the Appellate Authority did not consider the appeal having due regard to the prayer for condonation of delay. In the circumstances, Sri Routray submitted that it is a fit case where the matter should be remitted back to the Appellate Authority for reconsideration of the punishment imposed by the Disciplinary Authority vide Annexure-A/6.


5. We have considered the submissions made by the Ld. Counsel for the parties and given our anxious consideration to the arguments advanced at the Bar. Undoubtedly, the appeal preferred by the applicant against the order of punishment is barred by limitation as it was expected by the applicant to prefer appeal within 45 days of the receipt of order of punishment. Be that as it may, the Appellate Authority has not at all considered the appeal on merit and has rejected the same solely on the ground of delay. Since, the applicant later on has filed a petition before the Appellate Authority for condonation of delay in preferring appeal, in the fitness of things, the

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Appellate Authority, while discharging the functions of a quasi-judicial authority over the decision of the Disciplinary Authority, ought to have acted in a manner, which in our considered view, would have met the ends of justice. In other words, it was expected ^{of} ~~by~~ the Appellate Authority to consider the appeal on merit having due regard to unintentional delay by the applicant in preferring appeal.

6. Having regard to what has been discussed above, we are of the view that the ends of justice would be met if the appeal, along with the application for condonation of delay vide Annexure-A/7, is considered by the Appellate Authority on merit and a reasoned order passed on the appeal preferred by the applicant on merit afresh. Ordered accordingly.

7. To meet the requirement of technicality, we quash the impugned order vide Annexure-A/8 dated 04.10.2010 of the Appellate Authority rejecting the appeal of the applicant.

8. In the result, the O.A. is disposed of with the above observation and direction. No costs.


MEMBER (Judl.)


MEMBER (Admn.)