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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No.841 of 2012

Cuttack this the 12th Day of December, 2012

CORAM

Hon'ble Dr.Ramesh.Chandra Panda, Member(A)

Hon'ble Mr.Ashok Kumar Patnaik, Member(J)

G.S.Rao,
aged about 42 years,
Son of Sri G.Balaji,
Loco Pilot (Goods)
Khurda Road
under order of Dismissal from Railway Service,
now staying at N.C.Jena Building,
Loco Colony,
PO-Jatni,
Dist-Khurda,
PIN-752 050

Applicant

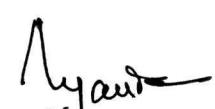
(Advocate:Mr.D.K.Mohanty)

-Versus-

1. Union of India
represented through the General Manager,
E.Co.Railway,
E Co.R.Sadan,
Samant Vihar,
PO-Mencheswar,
Dist-Khurda,
PIN-751 017
2. The Sr.Divisional Personnel Officer,
E.Co.Railway,
Khurda Road,
Jatni,
Dist-Khurda,
PIN 752 050
3. The Senior Divisional Electrical Engineer (OP),
East Coast Railway,
Khurda Road, Jatni,
Dist-Khurda,
PIN-752 050
4. The Divisional Electrical Engineer (OP),
East Coast Railway,
Khurda Road,
Jatni, Dist-Khurda,
PIN-752 050
5. Chief Crew Controller,
East Coast Railway,
Khurda Road,
Jatni,
Dist-Khurda,
PIN-752 050

Respondents

(Advocate: Mr.T.Rath, SC)



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ORDER(ORAL)

Dr.Ramesh Chandra Panda, Member(A):

This Original Application has come up at the admission stage.

2. We have heard Shri D.K.Mohanty, learned counsel for the applicant and Shri T.Rath, learned Standing Counsel for the Railways. We have issued notice to Respondents and Shri T.Rath, learned Standing Counsel takes cognizance of the same.

3. Shri Mohanty submits that the applicant has challenged the order of the Disciplinary Authority dated 25.08.2011/01.09.2011 (Annexure-A/9) whereby he has been dismissed from Railway Service. Shri Mohanty further submits that inadvertently the applicant could not avail the opportunity of preferring statutory appeal as provided under Railway Servants (Discipline & Appeal) Rules and has approached the Tribunal at the present juncture. He, therefore, submits that the Appellate Authority may be directed to receive his appeal, condone the delay and pass appropriate orders thereon.

4. Shri Rath, on the other hand submits that the applicant by sheer negligence has not availed of preferring appeal within 45 days which has been written in the punishment order itself. According to Shri Rath, though there is a provision for condonation of delay in Rule-20 of Railway Servants (Discipline & Appeal) Rules, the applicant is at liberty to at first request for condonation of delay from the competent Railway Authority and thereafter submit his appeal which will be considered as per law.

5. Having heard the contentions of the parties, we find that the prayer made by the applicant in the OA and the contentions canvassed by the learned counsel for the applicant are rather innocuous. We also find that Rule-20 of Railway Servants (Discipline & Appeal) Rules, prescribes that the appeal should be preferred within 45 days from the date of passing of the penalty order. However, there is a proviso to the said Rule which empowers the Appellate Authority to entertain the appeal by condoning the delay which might have occurred beyond 45 days.

6. In the instant case, the appeal to be preferred by the applicant is definitely beyond the prescribed period of 45 days. Applicant rather without exhausting the statutory remedy has rushed to the Tribunal which we do not appreciate. We, therefore, direct the applicant to submit an appeal along with a request for condonation of delay of preferring appeal beyond 45 days within a period of four weeks from to-day. In case the

A. M. Panda

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appeal is received by the Appellate Authority with a request for condonation of delay beyond 45 days of the penalty order, the Appellate Authority would consider the same as per law and pass appropriate orders within a period of nine weeks thereafter.

7. In terms of our above orders and direction, the O.A. is disposed of leaving the parties to bear their respective costs.


(ASHOK KUMAR PATNAIK)
MEMBER(J)


(DR.RAMESH CHANDRA PANDA)
MEMBER(A)

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