

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

M.A. No. 242 of 1997.

(O.A. No. 364 of 1996)

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

GOPA BOSE

vs.

UNION OF INDIA & ORS. (SE R1y)

For applicant : Mr. B. Sarker, Counsel.

For respondents : None.

Heard on : 11.12.97.

Ordered on : 11.12.97.

O R D E R

B.C. Sarma, AM.

1. This M.A. has been filed with the prayer that the order of the appellate authority dated 10.4.1997 be quashed and set aside on the ground that the appeal petition filed by him earlier has abated after the O.A. No. 364 of 1996, which was filed by him challenging the order of the disciplinary authority and the departmental proceeding instituted against him, was admitted on 18.10.96.

2. It is the specific contention of the applicant that as per provision of Sub-Section (4) of Section 19 of the A.T. Act, 1985, where an application has been admitted by the Tribunal for adjudication of the dispute, further proceeding in the matter shall abate. The applicant is aggrieved by the fact that he had preferred an appeal before the appellate authority as per law. But while the matter was pending for hearing before this Tribunal in the O.A. No. 364/96, the appellate authority had passed the impugned order on 10.4.1997 on his appeal petition. Therefore, it is not sustainable in law; that is what he contends.

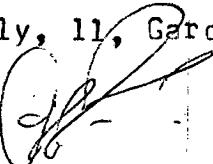
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3. In this case the respondents were directed to file reply, which has not been done. Today, when the matter was taken up for hearing and order, the 1d. Counsel for the respondents was not present. Since the matter is urgent and the respondents got adequate opportunity to file reply in the matter, we are of the view that instead of adjourning the case, appropriate order should be passed in this case.

4. We have considered the submission made by Mr. Sarkar and also perused record. We find that the O.A. was admitted by this Tribunal as per Order dated 18.10.1996, on which date the 1d. Counsel for both the parties were present. Therefore, the fact that the application was admitted by the Tribunal for adjudication of the dispute raised therein was very much known to the respondents. Despite that, it is unfortunate that the appellate authority had gone ahead with disposal of the appeal petition and had passed the impugned order dated 10.4.1997. We find that the appellate order was passed by a very responsible officer, who is Sri S. Ramanathan, General Manager, South Eastern Railway. An officer of so high a position, should have known about the legal provision in this matter and he should not have passed the said order. While we express our displeasure over the action taken by him in this matter after the O.A was admitted, we are not inclined to draw up any contempt proceeding against him; but observe that in the future, any recurrence of such incident will entail severe consequence.

5. The application is accordingly allowed. The impugned order dt. 10.4.97 is hereby quashed and set aside. No order is passed as regards costs. The copy of this order may be sent directly to Mr. S. Ramanathan, Ex-General Manager, S.E. Rly, 11, Garden Reach Rd, Calcutta-700 043.


(D. Purkayastha)
Member (J)


(B.C. Sarma)
Member (A)