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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of order : 13.7.2000

O.A.NO.150/98

R.A.Chaudhary S/o Shri Hub Lal aged about 43 years, R/o Qtr. No. Type, 17-D, Anukiran Colony, Rawatbhata, Distt. Chittorgarh, at present employed on the post of Scientific Officer/SB (On deputation) in the office TG Section Rajasthan Atomic Power Project - 3 and 4. Nuclear Power Corporation of India Ltd., Rawatbhata, Distt. Chittorgarh.

.....

.....Applicant.

VERSUS

1. Union of India through Secretary to the Government of India, Department of Atomic Energy, Anushakti Bhawan, CSM Marg, Mumbai.
2. Project Director, Nuclear Power Corporation of India Ltd., Rajasthan Atomic Power Project No. 3 and 4 PO Anushakti, Rawatbhata, Distt. Chittorgarh.
3. Managing Director Nuclear Power Corporation of India Ltd., 12th Floor, V.S.Bhawan, Anushaktinagar, Mumbai.

.....Respondents.

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Mr.J.K.Kaushik, Counsel for the applicant.

Mr.Arun Bhansali, Counsel for the respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER HON'BLE MR.A.K.MISRA :

The applicant had filed this O.A. with the prayer that the impugned chargesheet dated 19.2.96 (Annex.A/1) ^{and} penalty order dated 14.11.96 (Annex.A/2), be declared illegal and the same may be quashed.

2. Notice of the O.A. was given to the respondents who have filed their reply.

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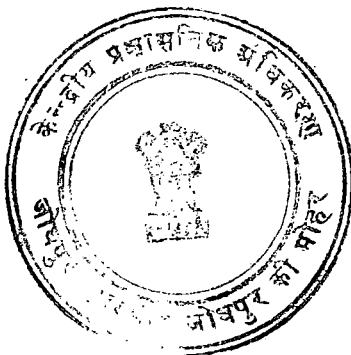


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3. We have heard the learned counsel for the parties and have gone through the case file.

4. First of all, it was argued by the learned counsel for the respondents that the O.A. is time barred and deserves to be rejected. No cogent reasons have been given by the applicant for delay in filing the present O.A., therefore, the same deserves to be rejected.

5. On the other hand, the learned counsel for the applicant submitted that the O.A. was filed by the applicant when the appeal of the applicant filed against the impugned punishment order was not decided within six months. The case otherwise is meritorious and, therefore, the objection relating to limitation deserves to be rejected.



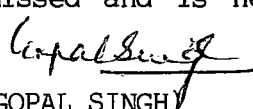
6. We have considered the rival arguments. The applicant was punished in departmental proceedings vide order dated 14.11.96. Against this order the applicant preferred an appeal which was addressed to the President ^{of India} whereas the appellate authority in the matter was Executive Director (Projects), Nuclear Power Corporation of India Limited. The applicant was also informed of this fact vide letter dated 17.12.96 (Annex.A/9), written by the Project Director to the applicant. However, the applicant did not file appeal to the Executive Director (Projects). In our opinion, when the appeal was not addressed to the appellate authority then such appeal cannot be treated as appeal and its pendency with any ~~other~~ officer other than the competent appellate authority is of no avail and on these facts the applicant cannot be heard to say that his appeal was pending and was not decided within a reasonable period. The impugned punishment order is dated 14.11.96, therefore, the O.A. should have been filed within one year of the same, whereas the present O.A. was filed on 18.5.98. In this connection, it was argued by the learned

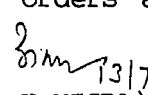
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counsel for the applicant that the applicant had filed an O.A. earlier in the beginning of 1997 which was withdrawn with liberty and therefore the present O.A. cannot be treated as barred by limitation. We have considered this aspect also. In our opinion, withdrawal of a petition with liberty does not save the limitation. If limitation starts running once nothing can stop it. For challenging the impugned order the limitation had started from the very day of the impugned order Annex.A/2. The appeal filed by the applicant ~~which~~ was addressed to a person unconcerned ~~is~~ no appeal in the eye of law and, therefore, limitation on account of pendency of such appeal also does not give any benefit to the applicant regarding limitation. In our opinion, the present O.A. is barred by limitation.

7. We have also examined the O.A. on merits. The applicant was punished with the penalty of with-holding ^{of} an increment for one year without cumulative effect. This penalty was imposed on the applicant after approval of the cadre controlling authority of the applicant. The applicant was punished for submitting false complaint which was addressed to the Managing Director, Nuclear Power Corporation of India Limited. The finding of the disciplinary authority in this regard were not challenged by the applicant by way of appeal to a competent appellate authority. Filing of false complaint is a question of fact in which we would not like to go into because it is not within our scope to examine the evidentiary part of the proceedings relating to the departmental inquiry. No procedural lapse has been pointed-out in conducting the inquiry. The punishment does not seem to be disproportionate to the charges, therefore, the impugned punishment order does not deserve to be interfered with as per the merits of the case.

8. The O.A., in our opinion, bears no merit and deserves to be dismissed and is hereby dismissed with no orders as to cost.


(GOPAL SINGH)
Admv. Member


(A.K. MISRA)
Judl. Member



Rec'd copy
CBA
2/17/2000

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m 2/17
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Part II and III destroyed
in my presence on 4-1-07
under the supervision of
section officer (1) as per
order dated 12/17/06

Maq...
Section officer (Record)