

In The Central Administrative Tribunal
Calcutta Bench

OA.930 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Suphal Gupta Applicant

- VS -

- 1) Union of India, service through the General Manager, Eastern Railway, Calcutta.
- 2) The Medical Superintendent, Eastern Railway Hospital, Asansol.

.... Respondents

For the Applicant : Mr. B. Chatterjee, Advocate

For the Respondents: Mr. M.K. Bandyopadhyay, Advocate

Heard on : 7-2-2000

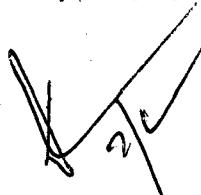
Date of Order : 7-2-2000

ORDER

D. PURKAYASTHA

When the case is taken for hearing, Mr. Bandyopadhyay, Id. Advocate appears on behalf of the respondents and submits that he has been appointed by the respondents on 2.3.99 to conduct the case on behalf of the Eastern Railway. Thereafter respondents did not supply any ^{an} d^app^{er} to him in this case. So, he prays for time to file reply to the O.A. since no reply has been filed by the respondents.

2. Mr. Chatterjee, Id. Advocate appears on behalf of the applicant and submits that the case may be disposed of in the light of the judgement passed by the Full Bench of the CAT, Ahmedabad Bench reported in 1995 ATJ Vol.II 283.



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3. Mr. Bandyopadhyay, Id. Advocate for the respondents, at the time of hearing, raises the question of limitation in this case since applicant did not prefer appeal before the authority in accordance with the rules against the impugned order of punishment awarded by the disciplinary authority vide order dated 2.6.78.

Therefore, application should be dismissed.

4. Mr. Chatterjee, Id. Advocate for the applicant submits that the question of limitation would not apply in this case since the order dated 2.6.78 (Annexure-A1 to the application) was passed by the Divisional Medical Officer, Eastern Railway, Asansol in violation of the instruction contained in the Indian Railway Establishment, Serial No.28/86, Circular No.E 308/8/Vol.XI, dated 3.3.1986. So, order dated 2.6.78 is wrong and illegal.

5. We have gone through the records and we have considered the submissions of Id. Advocates of both the parties. We find from the punishment order dated 2.6.78 that next increment of the applicant shall be withheld for a period of five years w.e.f. the date when it will otherwise be due to him. Thereafter, the Medical Superintendent, Eastern Railway, Asansol, as Appellate Authority issued the show cause notice for enhancement of the punishment awarded by the Divisional Medical Officer vide letter dated 13.4.79 and applicant was asked to show cause within 7 days from the date of receipt of the letter dated 13.4.79 (Annexure-A to the application). It is found that the applicant made an appeal to the Medical Superintendent, Eastern Railway, Asansol on 22.4.1979 (Annexure-A/2 to the application) through proper channel with reference to the letter dated 18.4.1979; but the letter dated 18.4.1979 has not been annexed with the application.

6. Id. Advocate Mr. Chatterjee submits that that appeal has not been disposed of. But Id. Advocate Mr. Bandyopadhyay submits that he did not get any instruction in this matter whether the appeal had been disposed of or not.

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7. In view of the aforesaid circumstances, we direct the respondents to dispose of the representation dated 22.4.1979, if not disposed of already within one month from the date of communication of this order in the light of instruction contained above. With this observation, application is disposed of.

G.S. Maingi
72/2000
(G.S. Maingi)
Member(A)

D.P. Purkayastha
(D. Purkayastha)
Member(J)

DKN