

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 1208 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Hon'ble Mr. G. S. Maingi, Administrative Member.

SUNIL KUMAR MONDAL

Vs.

... Applicant

1. The Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi-110 001.
2. The General Manager, Eastern Railway, Fairlie Place, Calcutta-1.
3. The Chief Works Engineer, Eastern Railway, Fairlie Place, Calcutta-1.
4. The Chief Personnel Officer, Eastern Railway, Fairlie Place, Calcutta-1.
5. The Deputy Chief Personnel Officer (now Workshop Personnel Officer), Eastern Railway, Kanchrapara Railway Workshop, Kanchrapara, Dist. North 24 Parganas.

... Respondents

For the applicant : Mr. R. K. Roy, counsel.

For the respondents: Mr. R. K. De, counsel.

Heard on : 3.9.1999

Order on : 28.9.99

ORDER

G. S. Maingi, A.M.

This application has been filed by the applicant in the year 1997. The applicant, Sunil Kumar Mondal, had earlier filed T.A. 1294 of 1986 (CR. 2012 (U) of 1985), which was disposed of by this Tribunal on 8.8.1988 by passing a common order alongwith nine other T.A.s filed by 9 other applicants. By the said order dated 8.8.1988, this Tribunal gave the said applicants time till 30th September, 1988, to file separate revision applications to the General Manager, Eastern Railway.

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and the reviewing authority was directed to dispose of the applications as per the provisions of sub-clause (ii) of Clause (c) of the first proviso to Rule 25(1) of the Railway Servants (Discipline & Appeal) Rules, 1968, after condoning the delay in filing the applications under the authority of Rule 27 of the said Rules, as early as possible. The applicant has filed the review petition to the General Manager, Eastern Railway, Calcutta, on 16th September, 1991 (annexure 'F' to the application).

2. It is necessary to trace out the background of the present O.A. being no.1208 of 1997. The applicant was appointed as a high-skilled Fitter, Gr.II on 12.6.1978 under the Deputy Chief Mechanical Engineer (S), Kanchrapara. He allegedly participated in violence and demonstration for which a criminal prosecution was launched against him and a few others. The applicant was removed from service by an order dated 28.1.1985 of the Chief Workshop Engineer, Eastern Railway, Calcutta, who passed an order under Rule 14(ii) of the Railway Servants (Discipline & Appeal) Rules, 1968. The applicant challenged this removal from service by filing a writ petition before the High Court, Calcutta, being CR. No.2012 (W) of 1985 which was subsequently transferred to this Tribunal and registered as T.A.1294 of 1986. The said application, as stated above, was disposed of by this Tribunal on 8.8.1988, by giving certain directions, as stated in paragraph 1 of this order. However, the applicant, instead of filing the revision application before the General Manager, Eastern Railway, Calcutta, within the stipulated time as indicated in the order dated 8.8.1988, chose to move the Supreme Court by preferring an appeal. In the meantime, he was also acquitted from the criminal proceedings by the competent court. When this fact was brought to the notice of the Hon'ble Supreme Court, the Supreme Court advised the applicant to withdraw the appeal and approach the railway-authorities for re-consideration of the order of removal from service. The applicant withdrew the appeal pending before the

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Supreme Court on 19.8.1991 and submitted a representation to the railway-authorities i.e. the General Manager, Eastern Railway, Calcutta on 16.9.1991. The Chief Works Manager of the Kanchrapara Railway Workshop by his order dated 8.9.1997, reinstated the applicant to service in his original post against an existing vacancy, but while issuing this order he used the words "mercy appeal" in the said order (annexure 'J' to the application). The applicant has taken serious objection to this expression. He has thereafter made a couple of representations to the Railway-authorities and also sent an Advocate's notice on 7th October, 1997 (annexure 'L' to the application). The present O.A. is against the action and/or inaction of the respondent-authorities refusing or withholding to consider his representation and issue proper orders by withdrawing the term "mercy appeal" in the order of his reinstatement and also grant promotional benefits for the period from 28.1.1985 to 8.9.1997. This explains the reasons for not complying with the order of this Tribunal passed on 8.8.1988.

3. The respondents have not filed any reply to the instant O.A. However, at the time of hearing of the O.A., Mr. R.K. Das the ld. counsel, appearing on behalf of the respondents, has vehemently argued the case and stated that at the material time in 1985, the applicant was rightly removed from service under Rule 14(ii) of the Railway Servants (Discipline & Appeal) Rules, 1968.

4. We have given our serious consideration to the application and also the annexures thereto. As stated above, this application has been filed against the action and/or inaction of the respondent-authorities refusing or withholding to consider the representation of the applicant and issue proper order for withdrawal of the term "mercy appeal" from the order of his reinstatement (annexure 'J' to the application), passed by the respondents. He has stated in paragraph (ix) at page 6 of the application that the Hon'ble Supreme

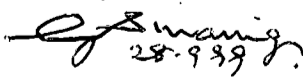
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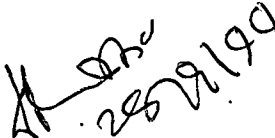
Court had viewed that the applicant should apply for revision because of the changed circumstances and the applicant was further advised to withdraw his SLP from the Supreme Court. The applicant had accordingly withdrawn the SLP from the Supreme Court on 19.8.1991. The applicant had submitted his application to the General Manager, Eastern Railway, Calcutta, on 16.9.1991, in compliance with the orders of this Tribunal dated 8.8.1988 as also in view of the advice of the Hon'ble Supreme Court. However, the said application has not so far been disposed of by the respondents. Subsequently, he issued a reminder to the respondents on 29.5.1996 and 22.9.1997. He has also made a representation to the Chief Works Manager, Kanchrapara against the expression "mercy appeal" used in the order of his reinstatement as also an Advocate's notice. All of these representations elicited no response from the respondents.

5. Keeping in view the fact that the applicant has submitted his representations to the railway-authorities in compliance with the directions of this Tribunal as well as of the Supreme Court as referred to by him in his application, this is a fit case where the respondents must act promptly and decide the case of the applicant.

6. It is, therefore, ordered that the respondents shall decide and dispose of the representation of the applicant within a period of three months from the date of communication of this order and intimate their decision to the applicant within a fortnight from the date of taking such decision. If the applicant is still aggrieved by the order passed by the respondents, he will be at liberty to approach this Tribunal, if so advised.

7. No order is passed as to costs.


(G. S. Maingi)
Administrative Member


(D. Purkayastha)
Judicial Member