

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 431/2001

Wednesday this the 23rd day of May, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

G.Raghavan Nair
S/o late S.Gopala Pillai, 51 years
Carriage & Wagon Fitter Gr.II
(Compulsorily retired), Carriage & Wagon
Superintendents Office, Southern Railway,
Kollam, residing at Santha Bhavanam,
P-allickal House,
Kottarakkara, Quilon Dist. ...Applicant

(By Advocate Mr.VR Ramachandran Nair)

V.

1. Union of India, represented by
the General Manager,
Southern Railway, Madras.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum.
3. The Chief Rolling Stock Engineer,
Southern Railway, Madras. ..Respondents

(By Advocate Mr. K.Karthikeya Panicker)


The application having been heard on 23.5.2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant is an Ex-Carriage and Wagon Fitter
Gr.II on whom a penalty of compulsory retirement from
service was imposed by order dated 18.10.93 preferred an
appeal to the third respondent on 17.2.2001. The said
appeal was filed after lapse of a long time. It has been
prayed in the appeal memorandum that the delay may be
condoned as the applicant was mentally ill and was
undergoing treatment and that alone was the reason for

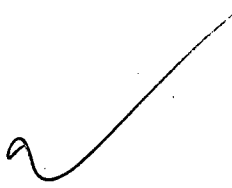
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the delay. This appeal has not been considered and disposed of. The penalty of compulsory retirement has been imposed for alleged unauthorised absence and the applicant has alleged in the application that as he was not mentally alright he did not understand the manner in which the enquiry was held or the reason for the finding. He has therefore, filed this application seeking to have the impugned order Annexure.A2 set aside. In the alternative he has prayed for a direction to dispose of the appeal (A7).

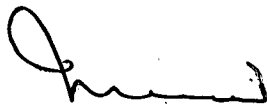
2. We have heard Shri VR Ramachandran Nair, learned counsel for the applicant and Shri K.Karthikeya Panicker, learned counsel for the respondents. Shri Panicker stated that the applicant has filed the appeal after an inordinate delay. Although the appeal ^{was} filed after lapse of ^{a long} time, it contains an averment that the applicant was mentally ill and was not in a position to understand the nature and quality of the act done by him and has sought condonation of delay. The competent authority, therefore, is bound to consider whether the averment, regarding the applicant's inability to file an appeal ^{in time} is genuine and whether the delay ^{deserves} to be condoned. In these circumstances, we are of the view that the proper course would be to direct the third respondent, appellate authority, to consider Annexure.A7 appeal including the prayer for condonation of delay and to dispose of the same with a reasoned order within a stipulated time. Learned counsel on either side agree that the application may be disposed of accordingly.

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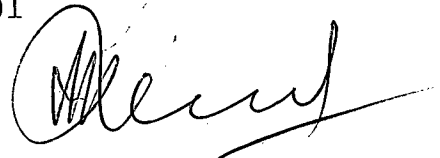


3. In the result, in the light of what is stated above and in the facts and circumstances of the case, we dispose of this application directing the third respondent to consider the Appeal (Annexure.A7) filed by the applicant including the ground for condonation of delay in filing the appeal and to dispose of the same with a reasoned order within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 23rd day of May, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

(s)

List of annexures referred to:

Annexure.A2: True copy of penalty advice order No.V/M 226/XIV/C&W/GRN dated 18.10.93 issued by the 2nd respondent.

Annexure.A7: True copy of appeal dated 17.2.2001 submitted by the applicant to the third respondent.

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