

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 325/90

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DATE OF DECISION 18-6-1990

S Manimohanan Nair _____ Applicant (s)

M/s K Ramakumar & VR Ramachandran Nair _____ Advocate for the Applicant (s)

Versus

Union of India rep. by the General Manager, Southern Railway, Madras and 3 others. _____ Respondent (s)

Mrs. Sumathi Dandapani _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri S.P. Mukerji, Vice Chairman

In this application dated 3.4.90, filed under Section 19 of the Administrative Tribunals Act of 1985, the applicant who has been working as a Porter under the Southern Railway and has been removed from service has prayed that the impugned order of removal dated 20.4.87 may be set aside and the respondents be directed to reinstate him in service. On the face of it the application seems to be time barred but the applicant's contention is that he had filed an appeal on 29.8.88 (Annexure-0) as also an application for condonation

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of delay to the Appellate Authority (Annexure-P), but there has been no response from the respondents. In support of his contention the applicant has produced the original copy of the acknowledgement card dated 31.8.88. Copy of the appeal which he had filed before the Appellate Authority has also been annexed by him as Annexure-0.

2 We have heard the arguments of the learned counsel of both the parties and gone through the documents. The learned counsel for the respondents indicated that the receipt of the appeal cannot be established. However, in view of the acknowledgement card, we have to give benefit of doubt to the applicant and presume that he had filed an appeal on 29.8.88, though with some delay. It was open to the respondents to give a decision on the appeal and also on the application for condonation of delay. Considering the circumstances in which he was removed, namely, unauthorised absence which according to the applicant has been due to prolonged illness and considering also the status of the applicant as a Porter, we feel that in the interest of justice and equity the delay in filing the appeal and the application before us should be condoned and we do so accordingly. In the circumstances we allow this application with the direction that the 2nd respondent would consider the appeal of the applicant dated 29.8.88 at Annexure-0

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after condoning the delay in filing the same.

The 2nd respondent will give a personal hearing also to the applicant and dispose of the appeal within a period of three months from the date of communication of this order. We also direct that the applicant send another signed and attested copy of the appeal to the 2nd respondent within a period of two weeks from to-day.


(N. Dharmadan) 18.6.90
Judicial Member


(S.P. Mukerji)
Vice Chairman

18-6-1990