

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 456/2006.

This, the 12th day of December, 2006.

Hon'ble Mr. A. K. Singh Member (A)
Hon'ble Mr. M. Kanthaiah, Member (J)

R. K. Dhingra,
Aged about 61 years,
Son of Sri Sant Lal,
Resident of House No. D-1/181, Sector H,
L.D.A. Colony, Kanpur Road,
Lucknow.

Applicant.

By Advocate Shri Birendra Prashad Singh.

Versus

1. Union of India, through Secretary,
Railway Board, Rail Bhawan, New Delhi.
2. The Senior Executive Director/Signal,
Research Design and Standard Organization,
Manak Nagar Lucknow.

Respondents.

By Advocate Shri N.K. Agarwal.

Order (Oral)

By Hon'ble Mr. A. K. Singh Member (A)

The applicant Shri R. K. Dhingra of the address given in the Original Application 456/2006 has filed this application against the order dated 30th November 2006 of the Disciplinary authority as per which, he has been awarded the penalty of compulsory retirement from service. The applicant filed a petition dated 12.1.2006 before the Appellate Authority i.e. the Senior Executive Director/Signal, R.D.S.O. Lucknow, seeking extension of time to file appeal against the impugned order up to 31.01.2006 over and above the time of 45 days to file appeal against the decision of Disciplinary Authority as provided under Rule 20 of Railway Servants (Discipline and Appeal Rules) 1968 on medical grounds. The appellate authority under proviso to Rule 20 is competent to condone the

delay in filing the appeal after expiry of the statutory time limit provided that applicant had sufficient cause for not preferring the appeal in time." The applicant furnished medical certificate in support of his say from a responsible Physician. The certificate of the Physician "Dr. Devangshu Nandi" is reproduced hereunder:

"Dr. Devangshu Nandi
MBBS, MD, FICMCH.
Member Narchi of International Association
For Maternal & Neonatal Health, Geneva,
Consultant Obstetrician & Gynaecologist.

Certified that Mr. R. K. Dhingra aged about 60 years M is suffering from hypertension and anxioid depressive state. He is under my treatment for the same and advised complete bed rest from 10.1.2006 to 24.1.2006."

2. The applicant, therefore, submits that he has shown sufficient cause for not preferring the appeal in time and hence the Appellate Authority should have extended the time limit in accordance with proviso to Rule 20 of Railway Servants (Discipline and Appeal Rules) 1968. The applicant submits that he, in the meantime preferred an appeal petition before the appellate authority on 1st February 2006, but the same was not considered on merits and was rejected only on the ground of limitation.

3. The applicant being aggrieved by the aforesaid decision of the Appellate Authority has filed this O.A. before us.


4. Shri N.K. Agarwal counsel for respondents has opposed the O.A. 456/2006 on the ground that if the applicant took nearly 43 days in preferring a representation for extension of time beyond the statutory time limit of 45 days as provided under Rule 45, he could have, as well filed the appeal within this period. He also submitted that seeking extension of time was nothing but a play to delay decision in the matter.

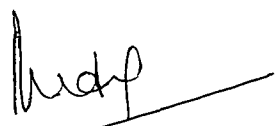
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5. We have considered the submissions made by the learned counsel for the parties. We find that the applicant has submitted a medical certificate, which clearly states that he was suffering from hypertension and anxiety, depressive state. The certificate has been issued by a responsible Physician and hence there is no reason to doubt the bonafides of the same. It is submitted by the counsel for the applicant, at the time of personal hearing that his client fell sick while he had gone to his native i.e. and hence due to emergency it could not be possible for him to obtain a medical certificate from a Railway doctor. In view of these submissions made by the applicant and also in view of the fact that the Medical Certificate, in question, has been issued by a very responsible physician, there is absolutely no reasons to disbelieve the same. Hence it is our considered view that the applicant has shown sufficient cause for condoning the delay in filing the appeal, which by implication only means extension ^{to beyond} of time limit of 45 days as provided in proviso to Rule 20 of Railway Servants (Discipline and Appeal Rules) 1968. Hence, the appeal-dated 1.2.2006 filed by the applicant should have been considered by the Appellate Authority on merits. As this has not been, the impugned order of the Appellate Authority dated 7.7.2006 and dated 22.8.2006 is, consequently not maintainable in Law and is accordingly quashed and set aside.

6. Accordingly, the Appellate Authority is directed to decide the appeal petition dated 1.2.2006 filed by the applicant, on merits after hearing him, through and speaking order, within two months with effect from the date of receipt of copy of this order.

7. O.A. 456 of 2006 is disposed of accordingly. No costs.


(M. Kanthaiah)
Member (J)


(A.K. Singh)
Member(A)