

Central Administrative Tribunal Lucknow Bench Lucknow

O.A.329/2009

This, the¹⁵ day of August, 2009

**Hon'ble Ms. Sadhna Srivastava, Member (Judicial)
Hon'ble Dr. A. K. Mishra, Member (Administrative)**

Laxmi Narain Shukla aged about 35 years son of Shri Dukh Nath Shukla r/o Village Naya Purwa, P.O. Deva Pasiā, Thana Katra Bazar, Distt. Gonda.

Applicant

By Advocate: Sri S.K. Banerjee

VERSUS

1. Union of India through its Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Indian Railways, through its Chairman, Rail Bhawan, New Delhi.
3. Mandal Rail Prabandhak III, Northern Railway, Lucknow.
4. Divisional Engineer –III, Northern Railway, Lucknow.
5. Assistant Divisional Engineer, Northern Railways, Lucknow.

Respondents.

By Advocate : Sri N.K. Agrawal.

ORDER

By Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant seeks quashing of an order dated 17th November, 2003 passed by Divisional Engineer –III, Northern Railway, Lucknow i.e. respondent No. 4 as contained in Annexure A-1. His further prayer is that after quashing the said order, a direction be issued to reinstate the applicant on the post of Gangman.

2. The facts are that the applicant was initially appointed on the post of Khalasi under the administrative control of respondents N. 3 to 5. It is alleged in the O.A. that in the year 1996, he met with a head injury and during the period 1996 to 2003, he was under severe depression. Therefore, he did not attend the office. Thereafter, he was declared fit in 2003 by a doctor of a private hospital. In 2003, he visited the office of respondents for joining. He was served with an order of dismissal dated 17th November, 2003. It is alleged in the O.A. that aggrieved by the order of dismissal, he filed an appeal. However, neither the date of appeal nor any proof of filing of appeal has been furnished by the applicant. Thereafter, the wife of the applicant filed an appeal before the respondents dated 29.6.2009 praying therein that the applicant may be reinstated on the post. Since no order has been passed on the representation of wife of the applicant, hence this O.A.

3. The facts as it would appear from the O.A. are that a departmental proceeding was drawn against the applicant for unauthorized absence; an enquiry was conducted. The disciplinary authority passed the order of removal. The applicant filed the instant O.A. in 2009 and no proof regarding filing of appeal has been produced before the Tribunal.

4. The respondents raised the preliminary objection that this O.A. is highly barred by time. The applicant was punished in 2003 and the instant O.A. has been filed in 2009. There is a delay of about 6 years. Therefore, the O.A. is liable to be dismissed.

5. We have given our anxious consideration to the facts of the case as disclosed in the O.A. We cannot ignore that the instant O.A. has been filed challenging the order of removal dated 17.11.2003. The basic question is about the law of limitation in this case. The applicant was removed in 2003. He remained silent for 6 years. Admittedly, the applicant received the order of removal in 2003. He did not approach the Tribunal for quashing of removal order within time. It is also relevant to mention that no application for condonation of delay has been filed by the applicant.

Section 21 of the AT Act clearly lays down that a Tribunal shall not admit an Original application [in a case where the Original Application challenge a final order], if the application is filed beyond the limitation period of one year from the date of passing of the final order. Clause (a) of sub-Section (1) of Section 21, which is relevant for our purpose reads thus:-

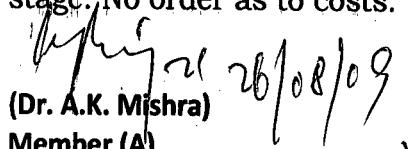
"[1] A Tribunal shall not admit an application-
[in a case where a final order such as is mentioned in clause (a) of sub-
section (2) of Section 20 has been made in connection with the grievance
unless the application is made within one year from the date on which such
final order has been made.]"

6. The purpose and the legislative intent behind prescribing limitation period in Section 21 (Supra) is to ensure that the Tribunals are not burdened with stale, old claims and that all such persons who feel aggrieved of any wrong being done to them approach the Tribunals within a reasonable time after the alleged wrong has been done to them and that they do not keep sleeping over it for years and years and at their sweet will { whenever they wake up from their deep slumber} they walk upto the Tribunal and present their old stale claims. Such an objective and legislative

intent cannot be defeated and frustrated by adopting a stratagem whereby, even though the dispute forming the subject matter of the claim has already become old and stale say by ten years or fifteen years and one fine morning a representation is made to settle that old dispute of the vintage of ten years or fifteen years and on such a representation being rejected, to file the original application against such rejection and then claiming that the same is within the limitation period of one year. This cannot be allowed to happen.

7. In the case of **Bhup Singh Vs. UOI and others, 1992 (2) SCC page 103**, the three judges Bench of the Apex Court held that inordinate and unexplained delay or laches itself as a ground to refuse the relief to the petitioner, irrespective of the merit of the claims. If a person entitled to relief chooses to remain silent for long, he thereby gives rise to a reasonable belief that he is not interested in claiming the relief. In the case of **R.K.Goyal Vs. State of Himachal Pradesh, (2004 ATJ page 120)** the Himachal Pradesh High Court also held that the claim filed with inordinate delay could be dismissed on the ground of laches.

Resultantly, the O.A.is barred by limitation. Hence dismissed at admission stage. No order as to costs.


(Dr. A.K. Mishra)
Member (A)


(Sadhna Srivastava)
Member (J)

HLS/-