

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

(2)

Original Application No. 767/89.

Shri Peter David Lillywhite.

... Applicant.

V/s.

The Divisional Railway Manager,
Central Railway,
Nagpur, and another.

... Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:

Mr.L.M.Nerlekar, advocate
for the applicant.

ORAL JUDGMENT:

(Per Shri M.B.Mujumdar, Member(J)) Dated: 18.12.1989

The applicant was appointed as Fireman 'B' in 1955. He was promoted as Shunter 'B' in 1957 and Driver 'C' in 1960. On 7.7.1981 he was served with a charge sheet alleging that he had remained unauthorisedly absent from his duty from 12.2.1981 to 30.6.1981.

After holding departmental inquiry the applicant was removed from service by order dt. 10.2.1982. He preferred an appeal dt. 2.3.1982, but it was rejected on 15.5.1982. Thereafter, he had preferred mercy appeal dt. 7.1.1983 and by order dt. 17.3.1987 the applicant was reinstated as a Shunter on humanitarian grounds with a direction that he ~~should~~ not be utilised on the main line service at all.

2. ^B While filing this application on 9.10.1989 the applicant has challenged the order dt. 10.2.1982 by which he was removed from service. He has also prayed for reinstatement to the post of Driver 'C' with full back wages.

3. We have just now heard Mr. Nerlekar for the applicant on the point of admission. We may point out that the applicant has filed another Original Application No. 763/89 for directing the respondents to allow him to resume duties and for payment of salary w.e.f. 7.10.1988. It is his case that he is removed illegally from service w.e.f. that date. We are not concerned with that subsequent removal from service in the present case. We have issued notice to the respondents regarding admission in that case.

4. However, in the present case i.e. O.A. 767/89 we find that the applicant was removed from service on 10.2.1989. He has merely mentioned in this application that he had preferred an appeal against that order, but he has neither given the date of appeal nor mentioned that that appeal was rejected on 15.5.1982. For finding these facts we ^{had to} ~~have~~ see the record of O.A. 763/89. As the applicant was removed from service on 10.2.1982 and his appeal against that order was also rejected on 15.5.1982 we are not inclined to admit this application. We have taken the same view in number of cases that when the cause of action had arisen more than 3 years prior to the Constitution of this Tribunal we have no jurisdiction to entertain an application in respect of that cause of action. We have also taken the view that there is no question of condoning delay in such a case (see V.K. MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, ATR 1986 CAT 203 decided by the Principal Bench of this Tribunal on 12.3.1986).

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We therefore rejecting this application summarily.


(M.Y. PRIOLKAR)
MEMBER(A)


(M.B. MUJUMDAR)
MEMBER(J).