

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 413 of 1999.

Dated this Friday, the 31st day of March, 2000.

Prabhakar Ukhadoo Patil, Applicant.

Shri K. B. Talreja, Advocate for the
applicant.

VERSUS

Union of India & Another, Respondents.

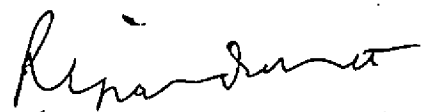
Shri R. R. Shetty, Advocate for the
Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
(iii) Library.

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(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Hon'ble Shri B. N. Bahadur, Member (A).

Shri Prabhakar Ukhadoo Patil,
Khalasi, Under Carriage & Wagon
Supdt. Bhusawal,
(Under Executive Control of D.R.M.,
C. Rly, Bhusawal, Dist. Jalgaon). ... Applicant
(By Advocate Shri K. B. Talreja)

VERSUS


1. The Union of India through
The General Manager,
Central Railway,
Mumbai C.S.T., Mumbai-1.
2. The Divisional Railway
Manager, Central Railway,
Bhusawal, Dist. Jalgaon. ... Respondents.
(By Advocate Shri R. R. Shetty)

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application filed by the applicant under Section 19 of the Administrative Tribunals Act. Respondents have filed reply. We have heard the Learned Counsel appearing on both sides regarding admission.

2. The applicant was a Khalasi in the Central Railway. He came to be removed from service as per order passed in a disciplinary enquiry by order dated 16.11.1987. Now, after thirteen years, the applicant has approached this Tribunal and even now he is not challenging the order of removal or the validity of disciplinary proceedings. The prayer in the O.A. is that respondents should be directed to furnish him documents where there are some irregularities and then applicant will amend

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the O.A. and challenge the orders passed in the disciplinary enquiry case. In our view, on the face of it, the prayers are not sustainable in law. If the applicant is aggrieved by any order passed by the administration, he has to challenge that order by ^{making} ~~make~~ necessary allegations. It may be for the proper hearing of the O.A. he could have filed a M.P. directing the respondents to produce the required documents. He cannot simply file an O.A. for the purpose of production of documents and then after going through them and if any irregularities are there, he wants to amend the O.A. to challenge the orders.

Therefore, in our view, the present O.A., as it is brought, is not maintainable and no relief can be granted to the applicant as far as prayers (i) and (ii) in para 8 of the O.A. are concerned.

3. In this connection, we may also mention that the impugned order of removal is dated 16.11.1987. The applicant has produced a copy of the charge-sheet which is dated 23.02.1985. In some of the representations he has admitted about the conduct of the enquiry and order passed by the Disciplinary Authority removing him from service and filing of appeal, etc. but still he comes to this Tribunal after thirteen years. Even then he is not even challenging the order of removal from service. On the face of it, the application is hopelessly barred by limitation, delay and laches. In these circumstances we hold that the O.A. is not maintainable and further, the claim is barred by limitation, delay and laches so far as prayers (i) and (ii) in para 8 of the O.A. are concerned.



4. As far as prayer (iii) is concerned, his prayer is that respondents should be directed to pay him 90% of the amount in his Provident Fund account. It is now admitted that respondents have paid Rs. 3,041/- to the applicant with interest, which comes to Rs. 3,836/-, on 09.12.1999 through cheque.

Applicant's counsel admits this payment but he submits that there is undue and unexplained delay in making this payment and it should have been paid when the order of removal from service was passed in 1987. He, therefore, says that interest should be paid on this amount at the rate of 18 % per annum from 16.11.1987 till the date of payment. The Learned Counsel for the respondents submitted that even if the amount is standing to the credit of an official, it ceases to earn interest after the expiry of six months, as per rule 902 of the Indian Railway Establishment Manual.

In this case, there is nothing to show that applicant demanded this amount after the removal from service. Though the applicant has produced one or two letters of 1987 and later, no acknowledgements are produced to show that such letters are delivered to the administration claiming amount in the Provident Fund Account. But there is one letter produced by the applicant, sent in April 1997, which is at page 14 of the Paper Book, which is dated 21.04.1997, where he made a grievance that the amount in the Provident Fund account is not paid. Applicant's counsel now shows a postal acknowledgement dated 28.04.1997. Therefore, we can hold that atleast there is one letter supported by acknowledgement to show that in April, 1997, the applicant had demanded the payment of amount in Provident Fund account. The

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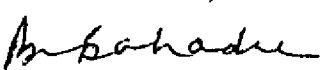
amount admittedly was not paid at that time but paid on 09.12.1999. Therefore, in the circumstances we hold that applicant is entitled to payment of interest on the principal amount of Rs. 3,041/- from 21.04.1997 (the date of demand vide letter supported by postal acknowledgement) till the date of payment, namely 09.12.1999. Under the Provident Fund Rules, interest was 12% at the relevant time and it is only reduced to 11% during January, 2000. Therefore, the respondents are directed to pay interest @ 12% per annum on the said amount for the said period.


5. In the result, the O.A. is disposed of at the admission stage with following directions :

Prayers (i) and (ii) in para 8 of the O.A. are rejected not only being not maintainable but also being hit by the principles of limitation, delay and laches.

Prayer (iii) is partly allowed directing the respondents to pay interest on Rs. 3,041.00 at the rate of 12% per annum from 21.04.1997 to 09.12.1999. This amount should be paid within two months from the date of receipt of a copy of this order by the respondents.

In the circumstances of the case, there will be no order as to costs.


(B. N. BAHADUR)
MEMBER (A).


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.