

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.564 of 1999

Dated this the Friday the 3rd day of January, 2003

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.S.L.Jain - Member (J)

P.G.Meena,
Ex.Goods Supervisor Trombay,
Head Booking Clerk,
King Circle, Central Railway,
Senior Divisional Commercial
Manager, Central Railway,
Mumbai, C.S.T.
(By Advocate Shri K.B.Talreja) - Applicant

Versus

1. Union of India
through the General Manager,
Central Railway,
Mumbai, C.S.T.
2. The Divisional Railway Manager,
Central Railway,
Mumbai, C.S.T.
(By Advocate Shri V.S.Masurkar) - Respondents

ORAL ORDER

By Hon'ble Shri S.L.Jain, Member(J) -

This is an Application under Section 19 of the Administrative Tribunals Act, 1985 to quash and set aside the order dated 18.11.1997 (Annexure-6 of the OA at page 20) passed by the Respondents.

Extract of the order is reproduced below:-

"...Taking into consideration your family condition I have decided to give you one chance to improve by reinstating you in service in the lower grade i.e. Rs.1400-2300/- (RPS) by fixing your pay at Rs.1400/- permanently.

The period of removal from service to reinstatement will be treated as without pay....."

2. It is true that the Applicant has moved this petition on 14.6.1999 while the order under challenge is dated 18.11.1997, i.e. beyond a period of one year. Keeping in view the above

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referred order which appears to be against every provision of law in the interest of justice we condone the delay in filing the OA.

3. On perusal of the above order, we are of the considered opinion that it is not a case of re-appointment, the reason being that in the latter part of the order it is being stated that the period of removal from service to reinstatement is to be treated "without pay". Further in the earlier part also it is stated "to give you one chance to improve by reinstating you in service". As such we hold that the order dated 18.11.1997 is a case of reinstatement.

4. The penalty awarded by the Appellate Authority is not mentioned in Rule 6 of the Railway Servants (Discipline & Appeal) Rules, 1968.

5. The OA is allowed and we remit the matter to the Appellate Authority to reconsider the appeal in the light of the provisions contained in Railway Servants (Discipline & Appeal) Rules, 1968 within a period of three months from the date of receipt of a copy of the order. We make it clear that the punishment imposed vide impugned order dated 18.11.1997 shall be reconsidered and no grave punishment shall be awarded by the Appellate Authority than the earlier one awarded vide impugned order dated 18.11.1997.

6. There will be no order as to costs.

P.L.Jain
(S.L.Jain)
Member (J)

B.N.Bahadur
(B.N.Bahadur)
Member (A)

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