

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 982/99

Date of Decision : 27th August 2002

L.Chandoo

Applicant

Shri R.C.Ravalani

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Ms.Supriya Daware for
Shri Suresh Kumar

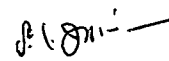
Advocate for the
Respondents

CORAM :

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

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

- (i) To be referred to the reporter or not ? No
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? No
- (iii) Library No


(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.982/99

Dated this the 27th day of August 2002.

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

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

Lalchand Chandoo,
Ex.Khalasi, SSE(C&W),
Pune (C.R.),
R/at Rly.Qr.No.K-479,
Tadiwala Road, Pune.

...Applicant

By Advocate Shri R.C.Ravalani

vs.

1. Union of India
through the General Manager,
Central Railway, Mumbai CST.
2. Divisional Railway Manager,
Central Railway Divisional Office,
Personnel Branch, Mumbai CST.
3. Chief Mechanical Engineer,
Central Railway, Mumbai CST.
4. Divisional Railway Manager
(Mechanical), Central Railway,
Pune.
5. Sr.Divisional Mechanical Engineer,
DRM's Office, Central Railway,
Pune.
6. Divisional Mechanical Engineer,
DRM's office, Central Railway,
Pune.

...Respondents

By Advocate Ms.Supriya Daware
for Shri Suresh Kumar

..2/-

P.(S.N.)

O R D E R

(Per : Shri S.L.Jain, Member (J))

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the chargesheet is vague, enquiry is vitiated and void, quash and set aside orders at Annexures-A-1, A-2 & A-3 imposing/confirming the removal from service with the direction to respondents to reinstate him with consequential benefits like continuity of service, back wages etc. with costs.

2. The applicant was re-employed vide order dated 27.7.1990 (Annexure-A-4) by D.R.M.(P) with the approval of ADRM(G)BB's sanction as Khalasi. He was served with the chargesheet dated 29.11.1996. He submitted the reply to the chargesheet vide his reply dated 20.12.1996. The reply is extracted below for ready reference :-

"I am sorry for the absence from duty pointed in the above memorandum. This was due to reasons beyond my control in that one or the other family member of mine suddenly fell ill and there is no other senior member to attend them; also due to family problems and tension, I also fell ill and could not report about it in time. I am sorry and would assure you I will be regular in future. Kindly excuse me this time."

Thereafter, enquiry officer was appointed and after examination of the applicant before actual proceedings of enquiry during the course of enquiry proceedings, the enquiry proceeded. PWI (I) who prepared pay sheets, L.A. Gaikwad P.W.-II were examined during the course of enquiry.

P.S. -

..3/-

3. After conclusion of enquiry, the enquiry officer submitted the report to the disciplinary authority. Disciplinary authority served the copy of the report to the applicant and thereafter passed the order dated 2.4.1997 removing the applicant from service. The applicant preferred an appeal against the said order which was decided vide order dated 30.7.1997. The applicant preferred mercy appeal which was decided vide order dated 7.10.1997.

4. The applicant further preferred an appeal to Chief Mechanical Engineer vide his reply dated 17.6.1998 and served Advocate's notice dated 7.6.1999. Thereafter, filed this OA. on 5.11.1999.

5. The applicant impugnes Annexures-A-1, A-2 and A-3 which are the orders passed by the disciplinary authority, appellate authority and mercy appeal decided by DRM's office.

6. After the order is passed on mercy appeal dated 7.10.1997, the applicant filed appeal to Chief Mechanical Engineer dated 17.6.1998. Whether such an appeal can be treated as Revision/Review. We restrain ourselves from recording an opinion on the said question as it is within the jurisdiction of the concerned Authority before whom the matter is pending. But it certainly does not extend the period of limitation or gives fresh cause of action. Keeping in view the orders impugned and the relief sought. Advocate's notice dated 7.6.1999 do not

P. G. M. -

..4/-

create any right in favour of the applicant. The applicant claims that OA. is within the period of limitation taking into consideration the appeal filed by him on 17.6.1998 to Chief Mechanical Engineer which is not decided so far. In our considered opinion, when the period spent in preferring appeal that too after more than 8 months and thereafter waiting for another one year and about 5 months, certainly cannot be excluded from counting the period of limitation or extended for counting the period of limitation.

7. The applicant has filed delay condonation application and the ground contained is extracted below :-

"In the circumstances, it is humbly prayed that as the applicant in good faith and under bonafide belief has been waiting for the disposal of the review appeal/mercy appeal dated 17.6.1998, this OA. may be heard and decided on merits in the best interest of justice and for the same the delay if any may be condoned."

8. In our considered opinion, there exists no sufficient ground to condone the delay based on the said facts.

9. M.P. for delay condonation deserves to be dismissed and is dismissed accordingly.

10. In the result, OA. is dismissed as barred by time. No order as to costs.


(S.L.JAIN)

MEMBER (J)


(B.N.BAHADUR)

MEMBER (A)

mrj.