

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : BANGALORE

DATED THIS THE 12TH DAY OF SEPTEMBER, 1986.

Present:

Hon'ble Justice K.S. Puttaswamy.. Vice-Chairman

Hon'ble Sri P. Srinivasan. .. Member(A)

APPLICATION NUMBER 1701 OF 1986.

D.V. Pathan
S/o Vazeer Khan,
Aged about 30 years,
working as a Khalasi
T.No. 1167, Welding Shop,
South Central Railway, Hubli
(Now illegally removed from
Services) and residing at
C/o Dr. A.K. Bashid, No. 4, H.
Kulkarni Hakkal, Goodshed
Road, Hubli-580 020. .. Applicant.

(By Sri M.S. Ananda Ramu, Advocate).

v.

1. The Union of India
represented by its Secretary
to Government, Ministry of
Railways, Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railways,
Park Town, Madras.
3. The Divisional Manager,
South Central Railways,
Hubli.
4. The Divisional Personnel
Officer, South Central
Railways, Hubli.
5. The Assistant Works Manager,
South Central Railways,
Hubli.
6. Works Manager,
South Central Railways,
Hubli. .. Respondents.

--

This

This application coming on for preliminary hearing to-day, Vice-Chairman made the following:

O R D E R

In this application made under Section 19 of the Administrative Tribunals Act of 1985 (Central Act 13 of 1985)('the Act'), the applicant has moved this Tribunal to quash order No.E.319/Welding/D/1167 dated 18-2-1984 of the Disciplinary Authority:AWM/R/UBLS ('DA) (Annexure-D) as violative of Article 311(2) of the Constitution of India.

2. At the material time, the applicant was working as a Tr.Welder in the Southern Railway owned by the Union of India. In a disciplinary proceeding instituted against the applicant under the Railway Servants (Disciplinary and Appeal) Rules,1968 ('the Rules'), the DA on 18-2-1984 (Annexure-D) imposed on him the penalty of removal from service. Aggrieved by the order made by the DA, the applicant has filed an appeal under the Rules on 24-3-1984 (Annexure-E) before the Works Manager, South Central Railway, Hubli, which is still pending disposal before that authority. Even before the DA has disposed of his appeal the applicant has moved this Tribunal on 5-9-1986 to strike down the order of the DA and direct his reinstatement to service.

3. Sri M.S.Anandaramu, learned counsel for the applicant contends that as the Appellate Authority had unreasonably delayed the disposal of the appeal

of

of the appeal of his client for more than 2 years and 5 months, it was imperative for the Tribunal to entertain his application and strike down the order of the DA.

4. The office has raised an objection to the effect that this application is barred by time. We do not consider it necessary to examine and decide this aspect, as we have decided not to interfere with the order of the D.A. before the Appellate Authority disposes of the appeal of the applicant.

5. We will accept for purposes of this application that the applicant had filed his appeal on 24-3-1984.

6. We confess that if the appeal had been filed on 24-3-1984 and the same had not been disposed of so far, there is considerable delay in the disposal of the same. But, that fact however, unfortunate and regrettable, over which we are even distressed and unhappy, does not itself justify us to arrest the proceedings, examine and decide the validity of the order of the DA. We must not lose sight of the fact that in the appeal pending before him, the Appellate Authority can examine every one of the questions of law and fact urged before us and grant every one of the reliefs sought in this application in which event the applicant can have no grievance to urge. But, even assuming that the Appellate Authority does not accept and makes an adverse order, then also it is

open

open to the applicant to approach this Tribunal. In these circumstances, we are of the view that this is not a fit case to arrest the proceedings before the Appellate Authority and interfere with the order of the DA.

7. Even though we have declined to entertain this application, we deem it proper to observe that appeals filed by aggrieved civil servants that too in cases of removals and dismissals, unless prevented by very exceptional and justifiable circumstances, must normally be disposed of with all such expedition as is possible in the circumstances of that case. We do hope that the Appellate Authority will atleast now wake up to his responsibilities and duties and dispose of the appeal of the applicant with all such expedition as is possible in the circumstances of the case. In order to enable him to do so, we consider it proper to direct the Registrar to forward a copy of this order to the Appellate Authority who is arrayed as respondent-6 within 10 days from this day.

8. In the light of our above discussion, we reject this application. But, we direct the Registrar to forward a copy of this order to respondent-6 within 10 days from this day.



Mr. Duane
 VICE-CHAIRMAN
 P. L. Le
 MEMBER