

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 10-12-87

APPLICATION NO 1989 / 86 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri A. Chowdaiah.
To

The Senior Divisional Personnel Officer,
South Central Railway, Hubli & 2 Ors

1. Shri A. Chowdaiah
Junior Clerk
Office of the Senior Divisional
Personnel Officer
South Central Railway
Hubli
Dharwad District

6. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Buildings, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

2. Shri M.H. Sawkar
Advocate
41, 1st Cross, Nehru Nagar
Bangalore - 560 020

3. The Senior Divisional Personnel Officer
South Central Railway
Hubli
Dharwad District

4. The Divisional Railway Manager
South Central Railway
Hubli
Dharwad District

5. The General Manager
South Central Railway
Rail Nilayam
Secunderabad (A.P.)

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/5777/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 3-12-87

RECEIVED 6 copies 14/12/87

Diary No. 1527/152/87

Date: 14.12.87

Encl: as above.

DEPUTY REGISTRAR
(JUDICIAL)

3. While working as a SC the applicant absented himself from duty from 27-8-1982 to 12-2-1984. On an examination of the same, and on that misdemeanour the Divisional Personal Officer, Hubli and the Disciplinary Authority ('DA') initiated disciplinary proceedings against the applicant under the Railway Servants' Discipline and Appeal Rules, 1968 ('Rules'). In accordance with the Rules, the DA by his order No.H/P.227/I/560 dated 14-2-1985 (Annexure-A) inflicted the penalty of removal from service against the applicant.

4. Aggrieved by the order of the DA, the applicant filed an appeal on 18-4-1984 before the Divisional Railway Manager, Hubli ('DRM') who some time later disposed of the same. The DRM while affirming the finding of guilt recorded by the DA and the punishment imposed on him, evidently on compassionate grounds, directed the DA to re-appoint the applicant as a JC afresh.

5. In obedience to the said order of the DRM, the DA by his office order No.H/P.579/I/1 dated 19-5-1984 re-appointed the applicant as a JC on temporary basis in the time-scale ^{of pay} allowed to that post. Accepting the said order of the DA, the applicant reported for duty on 19-5-1984 and has been working as a JC ever since then. With this the matter should have normally ended. But, alas, that did not happen.



CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 3RD DAY OF DECEMBER, 1987.

PRESENT:

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

And:

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 1989 OF 1986.

A. Chowdaiah,
S/o A. Venkataramiah,
Junior Clerk,
Senior Divisional Personnel
Officer's Office,
South Central Railway, Hubli. .. Applicant.

(By Sri M.H. Sawkar, Advocate)

v.

1. Senior Divisional Personnel Officer,
South Central Railway, Hubli.
2. Divisional Railway Manager,
South Central Railway,
Hubli, Dharwad District.
3. General Manager,
South Central Railway, -
Secundarabad, A.P. .. Respondents.

(By Sri M. Sreerangaiah, Advocate).

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This application having come up for hearing this day, Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985, ('the Act').

2. On 4-2-1979, the applicant joined service in the South Central Railways ('SCR') as a Junior Clerk ('JC'). He was promoted as a Senior Clerk ('SC') on 12-11-1981.



6. Some time after joining to duty as a JC, the applicant filed a review petition before the General Manager, SCR ('GM') who by his order communicated through the DPO's letter dated 30-3-1985 (Annexure-E) rejected the same. On receipt of the same, the applicant claims that he had made a representation to the President of India to interfere with all the aforesaid orders made against him and direct his reinstatement as a SC which he originally held. The applicant claims that that representation had not been disposed of by the President till 3-12-1986 or even thereafter.

7. On 4-12-1986 the applicant has approached us in this application challenging the orders made by the GM, DRM and the DA to the extent they have decided the matters against him and for appropriate reliefs thereto. In filing the application, there is a delay of about nine months, if the period of limitation is computed from 30-3-1985 on which day the order of the GM was communicated to him. Hence, the applicant had made an application under Section 21 of the Act for condonation of that delay and that is numbered as I.A.No.I.

8. In I.A.No.I the only ground urged by the applicant for condonation of delay is that the representations made by him before the President, had not been disposed by him till he approached this Tribunal.



9. In their reply, the respondents have opposed I.A.No.I and the main application.

10. Sri M.H.Sawkar, learned counsel for the applicant contends that the representations made by his client to the President though non-statutory and its non-disposal till 4-12-1986 or even thereafter constitutes a sufficient ground to condone the delay, if any, and then decide the application only on merits.

11. Sri M.Sreerangaiah, learned counsel for the respondents urges that the ground urged, even if true, does not constitute a sufficient ground to condone the delay.

12. In I.A.No.I the applicant had stated that he made a representation to the President of India on 13-2-1986 and in proof of the same, he had produced a postal acknowledgment dated 15-2-1986 of the President's Secretariat. We will assume them as true and correct and examine I.A.No.I on that basis.

13. The representations made are not statutory under the Rules or any other law. If they were not statutory, then the time occupied for the disposal of the same cannot be properly excluded in computing the period of limitation. Even otherwise, the non-disposal of the same cannot also constitute a sufficient ground for condoning the delay. On this view I.A.No.I is liable to be rejected.



14. We are also of the view that the conduct of the applicant who accepted the fresh appointment with open eyes from 19-5-1984 disentitled him to approach the GM and in any event the President of India. On this sole ground I.A.No.I. as also the main application call for rejection.

15. We are also of the view that the order made by the DRM though somewhat novel, queer and was not authorised by the Rules, had done substantial justice to the applicant by giving him a fresh appointment which he accepted without demur. Even if we hold that the ground urged constitutes a sufficient ground to condone the delay, then also, this is a fit case in which we should decline to interfere with the impugned orders.

16. On the foregoing discussion, we hold that I.A.No.I and the main application are liable to be rejected. We, therefore, reject I.A.No.I and the main application. But, in the circumstances of the case, we direct the parties to bear their own costs.



np/

Sd/-
VICE-CHAIRMAN 3/12/17

Sd/-
MEMBER(A) 13.12.17

- True copy -

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE