

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 16-2-88

APPLICATION NO 777 /87(F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri M. Philominadas

The GM, Southern Railway, Madras & 2 Ors

To

1. Shri M. Philominadas
318-F, Railway Quarters
Bangalore - 560 023
2. Shri Ashok G. Bhatta
Advocate
C/o Shri B.G. Naik
Advocate
No. 39, Abshot Layout
Sankey Road
Bangalore - 560 052
3. The General Manager
Southern Railway
Park Town
Madras - 600 003
4. The Divisional Railway Manager
Southern Railways
Mysore

5. The Divisional Mechanical Engineer
Southern Railways
Mysore
6. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Square Police Quarters
Mysore Road
Bangalore - 560 002

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/

~~ORDER~~ passed by this Tribunal in the above said application

on 21-1-88.

C. K
(Mr. Philominadas)
Applicant. 21-1-88

RE
DEPUTY REGISTRAR
(JUDICIAL)

QC.

RECEIVED 5 copies 17/2/88

Diary No. 1729/CL/88

Date: 17-2-88

Encl: as above.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE ~~22ND~~ ^{21ST} DAY OF JANUARY, 1988.

PRESENT:

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

And:

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

APPLICATION NUMBER 777 OF 1987.

M. Philominadas,
Train Examiner,
Yeshwanthpur,
R/o Railway Quarters,
No. 318-F, Bangalore-23.

.. Applicant.

(By Sri Ashok G. Bhatta, Advocate)

v.

1. The General Manager,
Southern Railways, Madras.
2. The Divisional Railway Manager,
Southern Railways, Mysore.
3. The Divisional Mechanical Engineer,
Southern Railways, Mysore. .. Respondents.

(By Sri K.V. Lakshmanachar, 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. At the material time, the applicant was working as a Train Examiner in the then Mysore Division of the Southern Railway. In a disciplinary proceeding instituted against him under the Railway Servants Discipline and Appeal Rules, 1968 ('the Rules') the Divisional Mechanical Engineer, Mysore and the dis-



Disciplinary Authority ('DA') by his order No.Y/P.227/RC/11/SPE/MPD/82 dated 26-5-1983 (Annexure-A1) imposed on him the penalty of removal from service. Aggrieved by the said order of the DA, the applicant filed an appeal before the Divisional Personnel Manager and the Appellate Authority ('AA') who by his order No.Y/P. 227/RC.11/SPB/HPD/82 dated 22-2-1984 (Annexure-B) dismissed the same. Aggrieved by the said orders of the AA and DA, the applicant filed a revision petition before the General Manager, Southern Railways (GM) who some time before 15-6-1987 rejected the same and directed its communication to the applicant through the AA.

3. On 27-5-1987 the applicant wrote a letter on the fate of his revision petition and in reply to the same, the Chief Personnel Officer, Madras ('CPO') on 15-6-1987 had informed him that the same had been rejected and had been communicated to him by the AA on 25-7-1984 (Annexure-C).

4. In this application made on 9-9-1987 the applicant has challenged the orders of the GM and the AA & DA.

5. While asserting that this application made by him on 9-9-1987 computing the period of limitation from 15-6-1987 on which day the CPO wrote him the letter was in time, the applicant had also made an application under Section 21(2) of the Act for condonation of delay, if any, in making his application.

6. Sri Ashok G.Bhatta, learned counsel for the applicant contends that in computing the period of limitation under the act, the date on which the applicant was informed of the result of his revision petition on 15-6-1987 should be reckoned as the starting point of limitation and when so done, this application made by the applicant on 9-9-1987 was in time.

7. Sri K.V.Lakshmanachar, learned counsel for the respondents contends that the rejection of the revision petition had been communicated to the applicant by the AA on 25-7-1984 itself and its reiteration on 15-6-1987 cannot, therefore, be held as the starting point for limitation under the Act.

8. On the dates of the orders made by the Disciplinary Authority and the Appellate Authority, there is no dispute between the parties. But, on the date on which the Revising Authority made his order and informed the same to the applicant there is a dispute between the parties. We must, therefore, first decide this question.

9. In his letter dated 15-6-1987, the CPO had stated that the revision petition was rejected by the GM and that fact had been communicated to the applicant by the AA on 25-7-1984. This letter is not an independent order made by the CPO. But, the ^{re} had only conveyed a fact which he had gathered from an examination of the records. Even in that letter also, the CPO had stated that the revision petition rejected



earlier had been communicated to the applicant on 25-7-1984. From this it follows that the letter dated 15-6-1987 of the CPO cannot, by any stretch of imagination, be treated as an order, much less an independent order, made against the applicant to compute the period of limitation under the Act from 15-6-1987. We cannot therefore uphold this contention of Sri Bhatta.

10. In their reply filed, verified by one Sri C.Muthumanickam, Divisional Personnel Officer, Southern Railway, Mysore, the respondents have stated that the revision petition of the applicant rejected by the GM evidently before 25-7-1984 had been communicated to him on 25-7-1984 (vide: para 10 of the reply). We have no doubt that the respondents had stated these facts on verification of their records. Even otherwise, we have no reason to doubt the correctness of this assertion of the respondents. We, therefore, accept this assertion of the respondents as correct.

11. The communication addressed by the AA to the applicant on 25-7-1984 must have been received by him on that very day, or within a few days thereafter and in any event before the end of that month. On these facts, we hold that the applicant had received the communication of the AA on or before 31-7-1984. In other words, we hold that the period of limitation for filing the application under the Act had commenced from 1-8-1984. If that date is taken as the date on which the last order of the GM was received by him, then this application must have been presented

under the Act on or before 1-4-1986.

12. But, this application, as noticed earlier had been presented on 9-9-1987. If that is so, then there is a delay of 527 days in making this application.

13. In I.A.No.I the applicant had alternatively sought for condoning the said delay.

14. Sri Bhatta contends that the facts and circumstances pleaded in I.A.No.I constitute a sufficient ground for condoning the delay.

15. Sri Achar contends that the facts and circumstances stated in I.A.No.I do not constitute a sufficient ground for condoning the delay.

16. In I.A.No.I, the applicant had stated that after his revision petition he made more than one reminder, the dates of which are not disclosed and three reminders on 3-3-1987, 27-5-1987 and 17-6-1987. In proof of the reminders alleged to have been sent, the applicant had not produced any evidence.

17. We have earlier held that the revision petition had been rejected and the same had been communicated to the applicant on 25-7-1984 and the same must have been received by him on or before 31-7-1984. We are of the view that the applicant, who had received this communication is deliberately keeping back the same and had come forward with a false story. We are clearly of the view that every one of the facts and circumstances stated by the applicant which are



unbelievable, do not constitute a sufficient ground to condone the inordinate delay of 527 days. On this view, I.A.No.I is liable to be rejected.

18. When once we reject I.A.No.I. the question of examining the merits does not arise.

19. But, out of deference to Sri Bhatta, we have examined the merits also.

20. All the authorities have concurrently found that the applicant had demanded Rs.1,000-00 from Sri Mathi as illegal gratification and had actually received a sum of Rs.150-00 through one Sri Srinivasan and that reprehensible conduct justified his removal from service. We are of the view that every one of the grounds urged against the concurrent findings of fact are without any merit. If the concurrent findings of fact on the guilt of the applicant are not interfered with by us then there is hardly any justification for us to interfere with the punishment imposed against him. We, therefore, find no justification to interfere with the impugned orders.

21. In the light of our above discussion, we hold that I.A.No.I and the main application are liable to be dismissed. We, therefore, dismiss I.A.No.I and the main application. But, in the circumstances of the case, we direct the parties to bear their own costs.

TRUE COPY

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Sdt - - -

SAF--
R.A. - ~~W. M. Shadoff~~ * was ~~Chairman~~
DEPUTY REGISTRAR (JDL) ~~7672~~ VICE-CHAIRMAN. 1. 1985
TRIBAL ADMINISTRATIVE TRIBUNAL

UV MEMBER (A) ~~21~~ 1.88

By 7/10/88
5/10/88
D. No. 191A/788/Sec. IV

SUPREME COURT OF INDIA
NEW DELHI

Dated 28th September, 1988

From:

The Additional Registrar,
Supreme Court of India,
New Delhi

To

The Registrar,
Central Administrative Tribunal
B.D.A. Complex, Indira Nagar
Bangalore-560 038.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO 4516 OF 1988.
(Petition under Article 136 of the Constitution of India, for

Special Leave to Appeal to the Supreme Court from the ~~Judgment~~
~~Order dated 21-1-1988~~ of the ~~High Court of~~
Central Administrative Tribunal, Bangalore Bench, Bangalore
in Application No.777 of 1987.)

M.Philominadas

.....Petitioner .

vs

The General Manager, Southern Railway & Ors. Respondents .
Sir,

I am to inform you that the Petition above-mentioned for
Special Leave to Appeal to this Court was filed on behalf of
the Petitioner above-named from the ~~Judgment~~
Order of the Central Administrative Tribunal, Bangalore.
~~Court~~ noted above and that the same was ~~was~~ dismissed/
~~dismissed~~ by this Court on the 26th day of September,
1988.

Yours faithfully,


for ADDL. REGISTRAR.

AS |

ns/14.9.1988/ivA*

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