

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 116/97

Date of Decision: 20.3.98

Shri Kamalkant Goyal

Applicant.

Shri G.S.Walia

Advocate for  
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri V.S.Masurkar alongwith

Shri S.C.Dhawan.

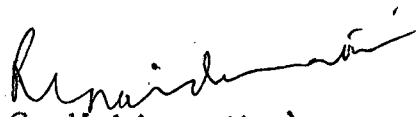
Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri. P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

  
(R.G. Vaidyanatha)  
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH 'GULESTAN' BUILDING NO:6  
PRESCOT ROAD, MUMBAI:1

Original Application No. 116/97

Friday the 20th day of March 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman  
Hon'ble Shri P.P. Srivastava, Member (A)

Kamalkant Goyal,  
T.T.I Central Railway  
Bhusawal.  
R/o 7/247, Sukarwara  
Harda (M.P)

... Applicant.

By Advocate Shri G.S.Walia.

V/s.

Union of India through  
General Manager,  
Central Railway,  
Mumbai VT.

The Divisional Railway  
Manager, Central Railway,  
Bhusawal.

... Respondents.

By Advocate Shri V.S.Masurkar along with Shri S.C.Dhawan.

ORDER (ORAL)

Per Shri Justice R.G.Vaidyanatha, Vice Chairman

This is an application filed under Section 19 of the Central Administrative Tribunals Act 1985, challenging the disciplinary enquiry proceedings on the ground of delay. The respondents have filed short reply opposing admission. We have heard counsel for both sides.

2. The applicant was tried in the departmental enquiry and he was found guilty and penalty was imposed on the applicant. The applicant had challenged the same by approaching this Tribunal in O.A. 891/88. After hearing both sides this Tribunal by order dated 14.12.93 allowed the O.A. and directed the respondents that the disciplinary enquiry should

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be conducted ~~as~~ fresh from the stage or recording evidence. It appears that subsequently the respondents issued notice to the applicant to appear before the disciplinary authority in September 1995. Being aggrieved by the issuance of the notice the applicant has approached this Tribunal by the present O.A. His case is that the delay is on the part of the respondents in proceeding with the disciplinary enquiry and therefore it is liable to be quashed. The applicant has been selected for promotion as per select panel dated 27.3.95 but the applicant has not been promoted may be because of the pending enquiry. Therefore the applicant approached this Tribunal to quash the disciplinary proceedings and to give a direction to the respondents to give him promotion. The applicant wants interim relief in the same terms.

3. In the reply the respondents have stated that the delay in conducting the enquiry is due to the conduct of the applicant who is not co-operating with the department for finalisation of the disciplinary proceedings. Therefore, they have stated that the applicant is not entitled to any relief.

4. After hearing both sides, we find that no case is made for quashing the disciplinary proceedings on the ground of delay. Delay according to the applicant is due to the respondents, but according to the respondents, the delay is due to the conduct of the applicant in non-co-operation with the administration in completion of the enquiry proceedings. The allegation against the applicant is of serious mis-conduct. There is some delay in conducting the disciplinary proceedings. However, since the applicant has already <sup>been</sup> selected

for promotion, we feel that we should direct the respondents to expedite the enquiry and dispose of the same by giving some direction. As far as the question of applicant's promotion is concerned it is for the respondents to consider, pending disciplinary enquiry, so that the question of promotion of the applicant can be taken up as early as possible."

5. In the result O.A. is disposed of at the admission stage with the direction to the respondents to expedite the disciplinary enquiry and dispose of the same preferably within a period of six months from the date of receipt of the order. We also direct the applicant to fully co-operate with the administration in the disciplinary enquiry. In the circumstances of the case there will be no order as to costs. M.P. 65/97 does not survive as the O.A. has already been disposed of.



(P.P. Srivastava)  
Member (A)



(R.G. Vaidyanatha)  
Vice Chairman

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