

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:350/97
DATED THE 13TH DAY OF DEC,2001**

**CORAM: HON'BLE SHRI S.R.ADIGE, VICE CHAIRMAN(A)
HON;BLE SHRI S.L.JAIN, MEMBER(J)**

Gajanan Gopinath Chikhalkar,
working as Foreman, MQC Deptt,
C.No.74, Naval Dockyard,
Shahid Bhagatsingh Marg,
Mumbai - 400 023.

... Applicant

By Advocate Shri M.S.Ramamurthy

V/s.

1. Union of India,
through the Secretary,
Ministry of Defence,
Government of India,
South Block,
New Delhi - 110 001.
2. The Admiral Superintendent,
Naval Dockyard,
Shahid Bhagatsingh Marg,
Mumbai - 400 023.
3. The Deputy General Manager(QA),
Office of the Admiral,
Superintendent, Naval Dockyard,
Shahid Bhagatsingh Marg,
Mumbai - 400 023.

... Respondents

By Advocate Shri K.R.Yelwe
proxy counsel for Shri V.S.Masurkar

(ORAL)(ORDER)

Per Shri S.R.Adige, Vice Chairman(A)

Applicant impugnes the disciplinary authority's order dated 29/2/96 (Exhibit-C) and the Appellate Authority's order dated 5/12/96 (Exhibit-G) rejecting the appeal. We have heard Shri Ramamurthy, counsel for the applicant and Shri K.R.Yelwe, proxy counsel for Shri V.S.Masurkar, Counsel for Respondents.

2. Applicant was proceeded against departmentally by the order dated 13/1/1995 on the allegation that he committed gross

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misconduct in that he was found unauthorisedly running a money lending business inside the Naval Dockyard. On the basis of the Enquiry Officer's report, a copy of which was furnished to applicant for a pre-decisional representation, the disciplinary authority by impugned order dated 29/2/96 has, after accepting the Enquiry Officer's findings, ~~has~~ imposed the penalty of with-holding of increment when falling due in the time scale of pay attached to his post for a period of three years with cumulative effect.

3. Applicant's appeal dated 1/8/96 has been rejected by the Appellate Authority by impugned order dated 5/12/96, on the ground that it is time barred under Rule 25 CCS(CCA) Rules, 1965.

4. Shri Ramamurthy has contended that the disciplinary authority's order dated 29/2/96 did not specifically indicate to whom the appeal against the order would lie and therefore applicant took some time in ascertaining as to who was the appellate authority.

5. In our considered opinion, applicant's appeal should not have been rejected by the appellate authority merely on the ground that it was time barred, in view of the fact that in his appeal he had prayed for condonation of delay.

6. In the circumstances, without interfering with the disciplinary authority's order dated 29/2/96 at this stage, the appellate authority's order dated 5/12/96 is quashed and set aside. The matter is remanded to the appellate authority for consideration of applicant's appeal dated 1/8/1996 by a detailed speaking and reasoned order which will deal with the points raised by the applicant in his appeal petition. In this

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connection, the appellate authority should also give the applicant a reasonable opportunity of being heard in person, before the appeal is disposed of.

7. This direction should be implemented as early as possible and preferably within three months from the date of receipt of copy of this order.

8. If any grievance still survives, it will be open to the applicant to agitate the same before the appropriate forum in accordance with law and rules.

9. The OA is disposed of accordingly. No costs.

S.L. Jain
(S.L.JAIN)
MEMBER(J)

S.R. Adige
(S.R.ADIGE)
VICE CHAIRMAN