

(51)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 120/89.

Date of Decision :

T.A.No.-

K.Devasahayam

Petitioner.

Shri G.Purnachandra Rao.

Advocate for the  
petitioner (s)

Versus

Union of India per General Manager,  
S.C.Rly., Secunderabad & 3 others

Respondent.

Shri N.R.Devaraj.  
SC for Railways

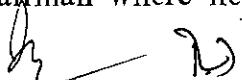
Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

  
HJNM  
M(J)

  
HRBS  
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.120/89.

Date of Judgment 31-7-1991

K.Devasahayam

.. Applicant

Vs.

1. Union of India per  
General Manager,  
S.C.Rly.,  
Secunderabad.
2. The Divl. Railway Manager,  
S.C.Rly.,  
Vijaywada Division,  
Vijaywada.
3. The Sr. Divl. Commercial  
Superintendent,  
S.C.Rly.,  
Vijaywada.
4. The Divl. Commercial  
Superintendent,  
S.C.Rly.,  
Vijaywada.

.. Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents : Shri N.R.Devaraj,  
SC for Railways

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Jud1)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn) I

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This application has been filed by Shri K.Devasahayam  
under section 19 of the Administrative Tribunals Act, 1985  
against the Union of India per General Manager, S.C.Rly.,  
Secunderabad and 3 others.

2. The applicant was, at the relevant <sup>time</sup>, functioning as a Senior Ticket Collector/Travelling Ticket Examiner in the scale of pay of Rs.330-560. A charge-sheet was issued to him, and after conducting of an enquiry the punishment of reducing him to a lower grade was inflicted on him. Thereafter he filed an appeal which was rejected. He made <sup>out</sup> a case for review which was also rejected. Now he has approached the Tribunal through this application with a prayer that the punishment order, appellate order and the review order be all quashed.

3. The respondents oppose the prayer. Among the various grounds on which they oppose, the question of limitation is one.

4. We have examined the case and heard the learned counsel for the rival sides. It is seen that even at the time of admission the question of limitation was pressed by Shri N.R.Devaraj, learned counsel for the respondents and the admission of this application was a conditional one subject to the question of limitation being raised at the time of final hearing. Section 21 of the Administrative Tribunals Act, 1985 states that a Tribunal shall not admit an application unless the application is made within one year from the date on which a final order causing grievance has been made. Sub-section (3) of Section 21 however permits admission if the applicant satisfies the Tribunal that he had sufficient cause for not making such an application within such a period. In this case we shall take up the various events chronologically.

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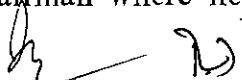
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S.C.Rly.,  
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4. The Divl. Commercial  
Superintendent,  
S.C.Rly.,  
Vijaywada.

.. Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents : Shri N.R.Devaraj,  
SC for Railways

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CORAM:

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This application has been filed by Shri K.Devasahayam  
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2. The applicant was, at the relevant <sup>time</sup>, functioning as a Senior Ticket Collector/Travelling Ticket Examiner in the scale of pay of Rs.330-560. A charge-sheet was issued to him, and after conducting of an enquiry the punishment of reducing him to a lower grade was inflicted on him. Thereafter he filed an appeal which was rejected. He made <sup>out</sup> a case for review which was also rejected. Now he has approached the Tribunal through this application with a prayer that the punishment order, appellate order and the review order be all quashed.

3. The respondents oppose the prayer. Among the various grounds on which they oppose, the question of limitation is one.

4. We have examined the case and heard the learned counsel for the rival sides. It is seen that even at the time of admission the question of limitation was pressed by Shri N.R.Devaraj, learned counsel for the respondents and the admission of this application was a conditional one subject to the question of limitation being raised at the time of final hearing. Section 21 of the Administrative Tribunals Act, 1985 states that a Tribunal shall not admit an application unless the application is made within one year from the date on which a final order causing grievance has been made. Sub-section (3) of Section 21 however permits admission if the applicant satisfies the Tribunal that he had sufficient cause for not making such an application within such a period. In this case we shall take up the various events chronologically.

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4. We have examined the case and heard the learned counsel for the rival sides. It is seen that even at the time of admission the question of limitation was pressed by Shri N.R.Devaraj, learned counsel for the respondents and the admission of this application was a conditional one subject to the question of limitation being raised at the time of final hearing. Section 21 of the Administrative Tribunals Act, 1985 states that a Tribunal shall not admit an application unless the application is made within one year from the date on which a final order causing grievance has been made. Sub-section (3) of Section 21 however permits admission if the applicant satisfies the Tribunal that he had sufficient cause for not making such an application within such a period. In this case we shall take up the various events chronologically.

(b) We find that the applicant had been cool about the whole matter at all stages. He prefers an appeal only 5 months after the punishment order and again makes a review petition after a delay of 4 months. When the review petition is rejected on 24.3.87 he waits for nearly 1 year and 8 months and then makes a mercy petition not available to him under rules and this is rejected as not maintainable on 12.12.88. His real cause for grievance arose on 24.3.87 and he should have approached this Tribunal by March, 1988. While a short delay ~~this way or that way~~ can be accounted for, there is no valid explanation on his part for a delay of nearly an year after the time limit of one year was over when he filed the application only in February, 1989. In his rejoinder he states that he was under the bonafide impression that he could approach the reviewing authority for reconsideration. This reason does not appeal to us. We, therefore, find that in this case the limitation question squarely arises and, therefore, dismiss the application as one hit by limitation under section 21 of the Administrative Tribunals Act, 1985. There is no order as to costs.

CERTIFIED TO BE TRUE COPY  
.....  
Date: ..... 11.8.91 .....  
Court Officer  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad.

(1) Date of punishment order.	15.7.85
(2) Appeal made on.	22.12.85 (5 months gap).
(3) Appeal rejected on.	15.4.86
(4) Review petition made on.	10.8.86 (4 months gap).
(5) Review petition rejected on.	24.3.87
(6) Mercy petition to the reviewing authority made on.	4.11.88 (More than 1½ year gap).
(7) Mercy petition rejected as not maintainable.	12.12.88

5. It is the contention of the learned counsel for the applicant that the reply of the 2nd respondent dated 12.12.88 should be taken as the criterion for the purpose of limitation and not the initial rejection of his review petition on 24.3.87. Against this, the contention of the respondents is that there is no provision at all for a mercy petition in the Railway Servants (Discipline & Appeal) Rules and the reply dated 12.12.88 was not one on merits. We have seen the reply dated 12.12.88. It simply states that action under Rule 22 and Rule 25 had already been completed in the case of the applicant and that there is no provision under the Railway Servants (Discipline & Appeal) Rules to entertain his case against the penalty. It also adds that his review petition dated 10.8.86 was already dealt with by the reviewing authority under Rule 25 and no further revision lies to any authority. Our observations are:

(a) There is no provision in the Railway Servants (Discipline & Appeal) Rules for a mercy petition and the reply dated 12.12.88 is just a disposal of a representation made on 4.11.88 not on merits but simply stating that the mercy petition is not entertainable.

To

1. The General Manager, Union of India, S.C.Rly, Secunderabad.
2. The Divl.Railway Manager, S.C.Rly, vijayawada Division, vijayawada.
3. The Sr.Divl.Commercial Superintendent, S.C.Rly.vijayawada.
4. The Divl.Commercial Superintendent, S.C.Rly,vijayawada.
5. One copy to Mr.G.I.Ramachandra Rao, Advocate 3-4-498, Barkatpura, Hyderabad.
6. One copy to Mr. N.R.Devraj, SC for Rlys,CAT.Hyd.
7. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
8. One spare copy.

pvm

- 4 -

(b) We find that the applicant had been cool about the whole matter at all stages. He prefers an appeal only 5 months after the punishment order and again makes a review petition after a delay of 4 months. When the review petition is rejected on 24.3.87 he waits for nearly 1 year and 8 months and then makes a mercy petition not available to him under rules and this is rejected as not maintainable on 12.12.88. His real cause for grievance arose on 24.3.87 and he should have approached this Tribunal by March, 1988. While a short delay ~~this way or that way~~ can be accounted for, there is no valid explanation on his part for a delay of nearly an year after the time limit of one year was over when he filed the application only in February, 1989. In his rejoinder he states that he was under the bonafide impression that he could approach the reviewing authority for reconsideration. This reason does not appeal to us. We, therefore, find that in this case the limitation question squarely arises and, therefore, dismiss the application as one hit by limitation under section 21 of the Administrative Tribunals Act, 1985. There is no order as to costs.

( J. Narasimha Murthy )  
Member (Judl).

( R. Balasubramanian )  
Member (Admn).

Dated

31st July 91

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Deputy Registrar (I)

ASR  
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8/8  
TYPED BY

Parer  
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COMPARED BY  
APPROVED BY

CHECKED BY  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MUITY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 31-7-1991

ORDER / JUDGMENT

M.A./R.A./C.A. No.

in

D.A. No. 120/89

T.A. No.

(W.P. No.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with direction.

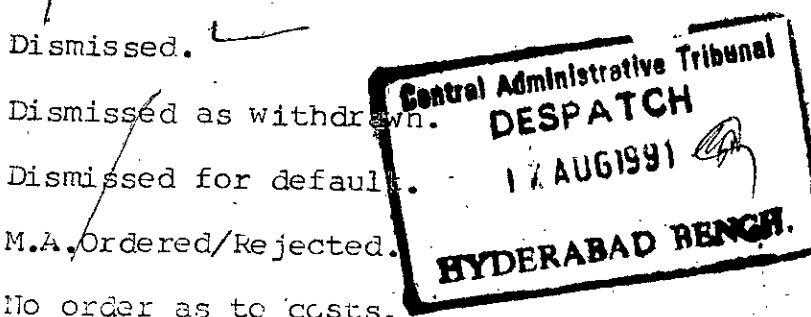
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



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