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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 367/91.

Dt. of Decision : 5-10-94.

S. Arjunudu

.. Applicant.

Vs

1. Divisional Railway Manager,
SC Rly, Vijayawada.
2. Sr. Divl. Commercial Superintendent,
SC Rly, Vijayawada.
3. Divl. Commercial Superintendent,
SC Rly, Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. J.M. Naidu

Counsel for the Respondents : Mr. D.Gopala Rao, SC for Rlys.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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D.A. 367/91.

Dt. of Decision : 5-10-94.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

The applicant Shri S. Arjunudu, who was working as Train Ticket Examiner (T.T.E.), SC Railway, Vijayawada, filed this application dt. 10-4-91 challenging the order dt. 24.6.85 of the 3rd respondent imposing on him the penalty of reduction to lower grade and the appellate order dt. 14.5.86 of the 2nd respondent on the ground that the orders are illegal, violative of Article 14 and 16 of the Constitution.

2. Under section 21 of the Administrative Tribunals Act, the applicant should have filed this application within a period of one year from the date on which the grievance arose, As the appeal filed by the applicant was disposed of as early as on 14.5.86, the applicant should have filed this application within a period of one year thereafter. When the application came up for hearing on admission the application was admitted leaving open the question of limitation for adjudication. The respondents appeared and filed a reply statement inter alia contending that the application is barred by limitation and also raising contention on merits. On the merits of the case the applicant has contended that the impugned order of penalty is violative of principles of natural justice, in as much as, reasonable opportunity had not been given to him to put up a proper defence, as the witnesses whose statements were relied on by the enquiry authority and disciplinary authority were not offered for cross-examination. The applicant contends that for this reason alone the order is void and inoperative. As the application was filed

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beyond the period of limitation, the applicant has filed an MA.No. 491/91 for having the delay condoned. Heard learned counsel for both the parties.

3. It is necessary to go into the merits of the case only, in case, we reach the conclusion that there is sufficient reason to entertain the application and disposing it of on merits on the basis of the averments made in the affidavit filed in support of the MA for condonation of delay. The case of the applicant is that as the impugned order of penalty as also the appellate order is ab-initio-void for the reason that they were passed in a proceeding which was held in violation of principles of natural justice, the question of limitation does not arise. The next contention of the applicant is that ~~there~~ after the appellate order was passed, he had made several representations which were not responded to by the authorities concerned and therefore there is no delay on his part. We have considered these aspects of the case. The question whether the enquiry was held according to the rules or in violation of rules and principles of natural justice is a question of fact. So in order to reach a conclusion whether the enquiry was held properly or improperly, it is necessary that the application is entertained. For entertaining the application the applicant should have filed the application within a period of limitation, or, he should have placed sufficient material on record to justify the condonation of delay in filing this application. Therefore the case of the applicant the very violation of principles of natural justice is sufficient to condone the delay is meaningless and deserves only to be mentioned are rejected. It is settled that ^{a void} ~~void~~ order need not be set aside. Therefore if the applicant feels that the impugned orders are void then there is no necessity to file this

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Copy to:-

1. Divisional Railway Manager, S.C.Railway, Vijayawada.
2. Sr. Divisional Commercial Superintendent, S.C.Railway, Vijayawada.
3. Divl. Commercial Superintendent, S.C.Railway, Vijayawada.
4. One copy to Sri. J.M.Naidu, advocate, CAT, Hyd.
5. One copy to Sri. D.Gopala Rao, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
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application at all. Coming to the case of the applicant, that he had filed repeated representations to higher authorities to re-consider the appellate order, it is well settled that making repeated un-successful representations ^{that} will enlarge the period of limitation prescribed under Administrative Tribunals Act. If an authority is needed on this point, it can be had in the judgement of Hon'ble Supreme Court in AIR 1990 SC 10 SS. Rathore Vs State of Madhya Pradesh. Apart from stating that he had made several representations the applicant has not in his affidavit stated any fact or circumstances which prevented him from filing an application within ^{the} period of limitation. Therefore, we do not find any ground to condone the delay of three years and 11 months in this case. The MA for condonation of delay is therefore dismissed.

4. Having found that the application is barred by limitation we dismiss the same without going into other rival contention of the parties. However we leave the parties to bear their own costs.



(R. RANGARAJAN)
MEMBER (ADMN.)



(A.V. HARIDASAN)
MEMBER (JUDL.)

Dated : The 5th Oct. 1994.
Dictated in Open Court.

For Rera
DY. Registrar

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