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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1282/99.

Date of Order : 13-9-2000.

Between :

Dr. P. Sambasiva Rao

... Applicant

A n d

1. Union of India,
Per Railway Board
(Ministry of Railways),
represented by its
Secretary, Rail Bhavan,
New Delhi -110 001.

2. Joint Secretary (Establishment)
Railway Board, Ministry of
Railways, Government of India,
Rail Bhavan, New Delhi-110 001.

3. General Manager,
South Central Railway,
Secunderabad.- 500 027.

... Respondents

Counsel for Applicant : Mr.G. Ramachandra Rao

Counsel for Respondents : Mr. V. Rajeswara Rao, SC

Coram :

The Honourable Mr. Justice D. H. Nasir, Vice-Chairman.

O R D E R.

Justice D.H. Nasir, VC :

1. The applicant is working at present as Medical Superintendent (Junior Administrative Grade) in the scale of Rs.12000-16500/- in the South Central Railway Health Unit at Guntur. He was initially appointed in the South Central Railway as Assistant Divisional Medical Officer on ad hoc basis on 2.11.1970 and in the year 1973 he was directly recruited by the ^{Public} Service Commission as Assistant

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Medical Officer and thereafter he was appointed on regular basis as Assistant Medical Officer. He was promoted to the senior scale as Divisional Medical Officer as per order dated 30.11.1994 with retrospective effect from 19.10.1987. He was subsequently promoted on 3.5.1995 as Medical Superintendent in the Junior Administrative Grade in the scale of pay of Rs.3700-5000/-. The applicant claims that he had a meritorious service record and in appreciation of his work, several commendation certificates were issued by ~~the~~ various higher authorities, the particulars of which are mentioned in paragraph-4(c) of the O.A.

2. While the applicant was working as Additional Divisional Medical Officer, South Central Railway at Vijayawada, a charge memo dated 30.10.1989 with two charges was issued to him. The allegation made against the applicant was that while he was working as Assistant Divisional Medical Officer, Health Unit, South Central Railway, Guntur during 1986-87 he committed serious misconduct by placing the railway employees under sick list for some days on monetary consideration. It is further alleged that in the year 1986 the applicant conducted periodical medical examination of one employee and did not cover the periodical medical examination from 10.9.1986 to 17.9.1986 although the said employee attended the Health Unit, Guntur on 10.9.1986. The applicant submitted his explanation on 5.12.1989 denying the said charges. However, according to the applicant, without considering the said explanation, the second respondent appointed the Chief Engineer (Construction Cell), South Central Railway, Secunderabad as Enquiry Officer by an order dated 8.1.1990. Five witnesses were examined by the

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Department during the enquiry and the statement of the applicant was recorded in his defence and with that the enquiry was closed. The Enquiry Officer submitted his report on 26.9.1990 holding that both the charges were not proved against the applicant.

3. Further according to the applicant, the Railway Board passed an order dated 4.5.1993 disagreeing with the findings of the Enquiry Officer in respect of Charge No.1 and imposed the penalty of reduction of pay from Rs.4000- to Rs.3800/- in the scale of pay of Rs.2200-4000 for a period of two years with cumulative effect. Aggrieved by the said order, the applicant filed an appeal to the President of India on 1.7.1993. The applicant further states that before passing the order dated 4.5.1993 disagreeing with the findings of the Enquiry Officer and imposing penalty, no notice was given to the applicant. He further states that while the appeal against the order dated 4.5.1993 was pending with the appellate authority, the first respondent herein passed an order dated 7.11.1994 modifying the order dated 4.5.1993 imposing penalty of reduction in pay by two stages in the scale of pay of Rs.3000-4500/- from Rs.4250/- to Rs.4000/- for a period of 19 months with cumulative effect. The applicant further submits that in the proceedings dated 2.12.1994 it is stated that the appeal dated 1.7.1993 preferred by the applicant against the order dated 4.5.1993 to the President of India was returned as the said appeal became redundant with the issue of the order modifying the earlier penalty.

4. Being aggrieved by the order dated 4.5.1993 and the modified order of penalty dated 7.11.1994 the applicant filed OA No.1509/95 before this Tribunal

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questioning the legality and validity of the aforesaid order. By an order dated 22.6.1998 in OA No.1509/95 the Tribunal set aside the modified penalty order dated 7/8.11.1994. However, liberty was given to the respondents to initiate proceedings from the stage of consideration of the report of the Enquiry Officer and to take a final decision in regard to the punishment to be awarded. Thereupon the respondent No.2 passed an order dated 18.9.1998 stating that the President after considering the order dated 22.6.1998 passed by the Tribunal and all other relevant records decided to set aside the modified penalty order dated 7/8.11.1994 and that the modified order was accordingly set aside without prejudice to further action that maybe taken by the Disciplinary Authority.

5. Subsequently respondent No.2 issued proceedings in Memo No.E(O)I/93/PU-2/30 dated 18.9.1998 conveying that the Railway Board has disagreed with the findings of the Enquiry Officer on Charge No.1 and called upon the applicant to submit his representation against the same. Accordingly, the applicant submitted his representation on 4.11.1998. According to the applicant, several points raised by him in the said representation were not considered by the Disciplinary Authority. The respondent No.2 ultimately passed the impugned order dated 18.1.1999 imposing the penalty of reduction of pay by one lower stage from Rs.14625 to Rs.14250/- in the time scale of pay of Rs.12000-16500/- for a period of one year with cumulative effect. Being aggrieved by the said order, the applicant filed an appeal on 15.4.1999 to the President of India and the same was acknowledged by the Secretary to the President of India by letter No.Pl/D-12543 dated 26.4.1999. However, according to the applicant, the said

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appeal was not disposed of even after lapse of three months.

6. With the above facts in view, it would appear that the applicant has approached this Tribunal with the present O.A. before exhausting all remedies available to him under law. The learned counsel for the applicant Mr. Ramachandra Rao submitted that the question of filing the O.A. without exhausting all statutory remedies did not come in the way of the applicant to file the present O.A. for obtaining the reliefs as set out in the prayer clause of the O.A. in view of the fact that the appellate authority failed to decide the appeal within the time stipulated by law and therefore, it became incumbent upon the applicant to approach this Tribunal for the redressal of his grievances. It is a matter of common knowledge for every one concerned with law that judicial process and for that matter even quasi-judicial process in many cases is delayed on account of unavoidable circumstances for no default on part of the judicial or quasi-judicial authority, beyond the time frame laid down by any statute. Unless the law/rule itself sets any infirmity on the proceeding, in the event of delay in disposing of a case/appeal, it can not be held that the 'delay' has produced a fatal effect on the maintainability of the proceeding. I am, therefore, not convinced by the submission made by the learned counsel Mr. Ramachandra Rao for the applicant that it became incumbent upon the applicant to file the present O.A. without waiting for the result of the appellate proceeding.


7. It is, therefore, not found necessary to examine the merits and demerits of the case in the present O.A. *at this stage.*

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8. The O.A. is, therefore, disposed of with a direction to the appellate authority that the appeal in question should be disposed of as early as possible but not later than 31st October, 2000, in accordance with law.

The O.A. is disposed of accordingly. No costs.


(D.H. Nasir)
Vice-Chairman.

Dated the 13th day of September, 2000.

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13/9/00

DJ/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:

1ST AND 11ND COURT

- 1. HDHND
- 2. HARN (ADMN) MEMBER
- 3. HBSJP (JUDL) MEMBER
- 4. D.R. (ADMN)
- 5. SPARE
- 6. ADVOCATE
- 7. STANDING COUNSEL

TYPED BY . . . CHECKED BY
COMPARED BY . . . APPROVED BY

THE HON'BLE MR. JUSTICE OH. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. P. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. S. JAI PARAMESHWAR
MEMBER (JUDL)

DATE OF ORDER 13/9/2000

MA/RA/CP.NO
IN
CA.NO.

1282/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

3 Copies

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दुबई / DESPATCH
20 SEP 2000
हैदराबाद ब्याच
HYDERABAD BENCH