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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 257/95

: Date of order: 27.6.95

Ansar Khan s/o Idiya Khan resident of Village Palsawata,
Post Malarna Dunger, District Sawaimadhopur.

... Applicant

VERSUS

1. Union of India through the General Manager,
Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway,
Kota Division, Kota.
3. Assistant Engineer (C), Western Railway, Alwar.
4. I.O.W. (Field), Western Railway, Sawaimadhopur.

... Respondents

CORAM

Hon'ble Mr. O.P. Sharma, Member (Administrative)
Hon'ble Mr. Rattan Prakash, Member (Judicial)

For the Applicant : P.V. Calla
For the Respondents : ---

O R D E R

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant, Shri Ansar Khan has prayed that the inquiry conducted by the Inquiry Officer in the applicant's case may be declared to be illegal and contrary to the principles of natural justice. He has also prayed that the findings of the Inquiry Officer dated 18.1.90 may be declared illegal. A still further prayer is that order (Annexure A-1) dated 30.5.95 by which the applicant was dismissed from service may be declared to be illegal and the applicant may be retained in service as if the aforesaid order has never been passed, with all consequential benefits.

2. According to the applicant, he had been serving as a Casual labour since 8.7.83, Disciplinary proceedings were

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initiated against him on the charge of procuring employment on production of a fake service card. According to him, the findings of the Inquiry Officer are perverse. During the arguments, the learned counsel for the applicant also stated that there were several others against whom action had been taken for the same mis-conduct. However, according to him, as seen from Annexure A-26 dated 16.6.91, orders passed against certain others who were impleaded in the same alleged mis-conduct have been cancelled by the Railway Administration itself and vide Annexure A-28, the periods during which they remained away from duty on account of the order of dismissal have been treated as period spent on duty for all purposes. In the circumstances, the learned counsel for the applicant has prayed that there is no justification in passing the order of dismissal in the case of the applicant.


3. We have heard the learned counsel for the applicant and have gone through the records.

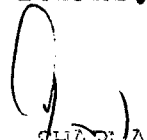
4. We find that the applicant has not preferred any appeal against order (Annexure A-1), by which the applicant was dismissed from service. The learned counsel for the applicant stated during the arguments that it was the applicant's feeling that no useful purpose would be served by filing an appeal because in other similar cases when appeals were filed, these remained undisposed of and ultimately those applicants had to approach the Tribunal for relief. It was during the pendency of the application before the Tribunal that the respondents had cancelled the dismissal orders of those persons. However, we are of the view that since right to appeal is a statutory right and if an appeal is preferred before the Appellate Authority, it is duty bound under the rules to dispose it of on merits within a reasonable time.

5. In the circumstances, we direct that the applicant may

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file an appeal before the Appellate Authority within forty five days from the date of communication of this order to him and if such an appeal is preferred, it shall be disposed of by the Appellate Authority within a period of forty five days from the date of receipt thereof, by a speaking order, meeting all the points raised in the memorandum of appeal and also having regard to the provisions of Rule 22(2) of the Railway Servants (Discipline & Appeal) Rules, 1969. However, since this application is pre-mature it is dismissed at the admission stage, subject to the above observations.


(RATTAN PRAKASH)
MEMBER(J)


(O.P. SHARMA)
MEMBER(A)