

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.483/99

Date of order: 9.7.2002

Bhanwar Lal, S/o Sh.Ramgopal, R/o Vill.Balenganj, Tehsil Indergarh, Distt.Bundi, Rajasthan, last employed as Gangman in Unit No.3 under PWI Lakeri, Western Railway.

...Applicant.

vs.

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Assistant Engineer (Central) Western Railway, Kota Division, Kota.
3. Senior Divisional Engineer (C), Western Railway, Kota Division, Kota.

...Respondents.

Mr.C.B.Sharma, Counsel for applicant

Mr.S.S.Hasan, Counsel for respondents.

CORAM:

Hon'ble Mr.H.O.Gupta, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

ORDER (ORAL)

The applicant is aggrieved of the order dated 24.4.97 (Annex.A2) whereby a penalty of removal from service has been imposed on the applicant on the allegation of long unauthorised absence and has prayed for quashing the said order on the various grounds stated in the application.

2. The respondents have contested the application. The preliminary objection with regard to the limitation is taken by the respondents. The respondents' plea is that the final order was passed in July 1997 whereas this O.A has been filed in October 1999. Therefore, the case is barred by limitation under

the provisions of the CAT Rules. The contention of the applicant is that he has filed an appeal dated 18.9.97 (Annex.A4) but the respondents have not considered the appeal. Further, that he has also filed an application for condonation of delay with cogent reasons thereof.

3.0 Heard the learned counsel for the parties and perused the record.

3.1 During the course of argument, the learned counsel for the respondents submitted that the said appeal was never received by the respondents and the applicant has failed to give proper proof of having despatched the said appeal. The contention of the learned counsel for the applicant is that the applicant is a Group-D employee and was holding the post of Gangman and that appeal was submitted in the office. He was not given any receipt and did not insist in good faith. He further submitted that the applicant has submitted an application for condoning the short delay on the ground that the applicant having been removed from service in the year 1997 and he was facing extreme financial crisis therefore, he was unable to file this O.A in time for want of funds. He prayed that the application for condonation of small delay be accepted in the interest of justice.

3.2 We have given due consideration to the contentions of the rival parties. We feel that the applicant has made a *prima facie* case for condonation of delay and in the interest of justice, the delay is required to be condoned. Therefore, we condone the delay in filing the O.A.

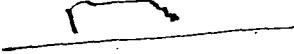
3.3 Since, the appeal has not been disposed of, without going into the merit of the case, we feel that the O.A should be disposed of with the direction to decide the appeal. Accordingly, this O.A is disposed of with the direction to the

applicant to send a copy of the appeal to the competent appellate authority within 15 days from today and by speed post to avoid delay and in that event the respondents shall ensure that the competent appellate authority disposes of the appeal of the applicant, within 8 weeks from the date of receipt of such appeal, keeping in view the law laid down on the subject as also without taking the plea of limitation.

4. No order as to costs.

  
(M.L.Chauhan)

Member (J)

  
(H.O.Gupta)

Member (A).