

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

DATE OF ORDER: 10.05.2004

OA No. 173/2001

Rajeev Saxena aged 33 years by caste Saxena, resident of 930/25, Behind Rajendra School, Asha Ganj, Ajmer, now-a-days working as Senior Clerk, Loco Time Office, Western Railway, Ajmer.

....Applicant

VERSUS

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Senior Personnel Officer, Loco Workshop, Western Railway, Ajmer.
3. Deputy C.M.E., Loco Workshop, Western Railway, Ajmer.
4. Shri Fateh Singh, Ofice Supdt., Union Room, Loco, Western Railway, Ajmer/Enquiry Officer.

....Respondents.

Mr. S.K. Jain, Counsel for the applicant.

Mr. Madhukar Sharma, Proxy counsel for

Mr. S.S. Hassan, Counsel for the respondents.

CORAM:

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

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER(ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That by an appropriate order or direction, the impugned charge sheet dated 4.9.97 Annexure A/1 be quashed and set aside.
- (ii) That by an appropriate order or direction, the impugned order of imposition of penalty dated 31.10.2000 Annexure A/2 be quashed and set aside alongwith the appellate order dated 17.2.2001 Annexure A/3 and the applicant be declared to give the benefit of increment as the impugned orders have not been passed.
- (iii) That the applicant be also declared to be

40

exonerated from all the charges.

(iv) Any other relief which this Tribunal deems fit may also be granted to the humble applicant, looking to the facts and circumstances of the present case.

2. The facts of the case are that the applicant while working as Senior Clerk was proceeded departmentally and a formal charge sheet was issued. The Inquiry Officer held the applicant guilty of the charges. Subsequently, the Disciplinary Authority imposed penalty of withholding of one increment for a period of two years without future effect. Subsequently, the applicant filed an appeal against the impugned order passed by the Disciplinary Authority dated 31.10.2000 (Annexure A/2). Since the appeal was time barred, the applicant has pleaded in the grounds of appeal that on the receipt of the impugned punishment dated 31.10.2000 [redacted] he was badly shocked and became nervous and perplexed and lost the equilibrium of thoughts. In fact he was dejected and did not take any action because nobody agreed to guide, help and assist him including the Trade Unions. It was further pleaded that Advocate demanded big amount of fee. There was a marginal delay of about 26 days. The Appellate Authority vide order dated 17.2.2001 (Annexure A/3) rejected the appeal on the ground of limitation without condoning the delay. Thus these orders are challenged in this OA.

3. Notice of this application was given to the respondents. The respondents have filed a detailed reply.

4. We have heard the learned counsel for the parties. We are of the view that without going into merits of the case, impugned order dated 17.2.2001 (Annexure A/3) deserves to be quashed. The Appellate Authority has dismissed the appeal of the applicant solely on the ground of limitation without going into merit of the case. There is a marginal delay of 26 days in filing the appeal. The Appellate Authority has not given reasons as to why the grounds taken by the applicant in his appeal does not constitute sufficient cause to condone the delay and otherwise ^{also} the delay ought to have been condoned. The Appellate Authority should have taken a liberal view as

there is a delay of only 26 days..

5. In view of what has been stated above, we are of the view that ends of justice will be met if the impugned order is quashed and set aside and the matter is remitted back to the Appellate Authority to pass a reasoned and speaking order by entertaining the appeal of the applicant and give findings on merit. Accordingly the impugned order dated 17.2.2001 (Annexure A/3) is quashed. The matter is remitted back to the Appellate Authority to decide the appeal of the applicant dated 11.11.2000 (Annexure A/13) on merits. Such decision should be taken within six weeks and the decision so taken shall be communicated to the applicant within two weeks thereafter.

6. Accordingly, the OA is partly allowed with no order as to costs.

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(A.K. BHANDARI)

MEMBER (A)


(M.L. CHAUHAN)

MEMBER (J)

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