

Date of Decision : 21.3.03

O.A. NO. 544/95.

Devendra Pal Singh, aged about 37 years, son of Shri Amar Singh, resident of Gali No.4, House No. 338-B, Raja Park. Place of posting as M.T. Driver in the office of Chief Engineer, MES, Jaipur. (Now services stand terminated).

... APPLICANT.

versus

1. Union of India through the Chief Engineer, Dakshin Kamman Mukhyaiaya, Engineering Shakha, Headquarter Sadan Kamman, Engineers Brandh, Pune-411001.

2. Chief Engineer, Jaipur Zone, MES, Banni Park, Jaipur.

... RESPONDENTS.

Mr. S. S. Hora Adv. brief holder for
Mr. Virendra Lodha counsel for the applicant.
Ms. Shalini Sheoran Adv. brief holder for
Mr. Bhanwar Bagri counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :

Per Mr. Justice G. L. Gupta.

The applicant was initially appointed as MT Driver vide order dated 4.10.76. While he was working as MT Driver in the Office of the respondent No.2, he was placed under suspension because of his arrest in a criminal case. After some time, he was re-instated in service. A charge sheet was served on him, wherein it was stated that he had absented himself very frequently without permission and was absent from duty from 13.7.92 till date of issuance of the charge sheet.

2. After the completion of the inquiry, the Inquiry Authority passed an order on 7.12.93, Annex. R.1, wherein it was stated that the charge against the applicant was proved. The Disciplinary Authority accepted the report of the Inquiry Authority. Holding that the charge against the applicant was proved, the Disciplinary Authority imposed

H. Hora
D.G.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR

MISC. APPLICATION NO. 371/2003

IN

ORIGINAL APPLICATION NO. 544/95

Davendra Pal Singh, aged about 37 years
son of Shri Amar Singh, resident of Gali No. 4,
House No. 338-B, Raja Park.

Place of posting as M.T. Driver in the office
of Chief Engineer, MES, Jaipur (Now services
stand terminated).

...Applicant

Versus

1. Union of India through the Chief Engineer
Dakshin Kamman Mukhyalaya, Engineering Sakha,
Headquarter Sadan Kammand, Engineers Branch,
Pune-411001

2. Chief Engineer, Jaipur Zone, MES, Banni Park,
Jaipur.

...Respondents

1-9-03

MISC. APPLICATION FOR EXTENTION OF
TIME ON BEHALF OF RESPONDENTS

MAY IT PLEASE THIS HON'BLE TRIBUNAL

The humble answering respondents most respectfull
begs to submits as under:-

1. That the Hon'ble Tribunal in the OA No. 544/95
vide order dt. 21.3.03 directed the respondents to dispose
of the Appeal of the applicant on merits without raising
the objection of limitation. The applicant shall be at

(4)

penalty of dismissal from service vide order Annex. A.1 of August 1994. The applicant challenges that order by filing this O.A. on 4.8.95.

3. In the counter, the respondents' case is that the charge framed against the applicant was proved and, therefore, the Court should not interfere in the matter.

4. Rejoinder has been filed by the applicant stating that no copy of the Inquiry Authority's report was served on the applicant.

5: We have heard the learned counsel for the parties and perused the documents on record.

6. Mr. Lodha, learned counsel for the applicant states that his client has realised that he ought to have preferred departmental appeal against the order of penalty, before coming to this Court. He further says that the applicant may be permitted to file an appeal against the order of penalty by condoning the delay. He points out that no legal objection has been taken by the respondents in their reply in this regard.

7. Ms. Shalini Sheron, learned counsel for the respondents, says that the applicant has approached this Tribunal without exhausting the remedies available to him and, therefore, the application should be dismissed on this ground alone. She, however, does not oppose the request of the applicant to prefer appeal now.

8. We have given the matter our thoughtful consideration. Sec. 20 of the Administrative Tribunals Act, 1985, states that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed of all the remedies available to him under the

Attended
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relevant service rules as to the redressal of grievance. Admittedly, the applicant had not preferred any appeal against the order of penalty. It is seen that this point was not noticed by the Tribunal for more than 7 years since ^{the} O.A. was filed. It is further seen that the matter has not yet been admitted.

9. Keeping in view the peculiar facts and circumstances of the case, we think it a fit case in which the applicant should be given permission to prefer appeal against the order of penalty.

10. Consequently, it is observed that the applicant may now prefer appeal against the order of penalty. The respondents are directed to dispose of the appeal of the applicant, if preferred within six weeks from today (21.3.2003), on merits without raising the objection of limitation. The applicant shall be at liberty to challenge that order in accordance with law.

11. This O.A. stands disposed of with no order as to costs.

Skp
(A. P. NAGRATH)
MEMBER (A)

GLG
(G. L. GUPTA)
VICE CHAIRMAN

Ordered That This is a
copy of the order of the
Tribunal dated 21.3.2003
in the case of

Pls see
Copy of the order
of the Tribunal
dated 21.3.2003
is being sent to
the Copying Clerk
of the Tribunal
for filing.

23/6/03
This Annex-MA/1 is the true copy of
the original document
B
23/6/03