

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, J  
CIRCUIT COURT SITTING AT BILASPUR  
Original Application No. 527/04  
Bilaspur, this the 4th day of February, 2005

Hon'ble Mr. M.P.Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

U.Vijaya Kumar, IRPS,  
Aged 50 years, S/o U.N.Rao,  
Dy.Chief Personnel Officer,  
SEC Railway, Bilaspur.

APPLICANT

(By Advocate - Shri V.D.Bajpai)

VERSUS

1. Union of India Through its  
Principal Secretary(Chairman),  
Ministry of Railways, Railway Board,  
New Delhi-110 001.

2. Joint Secretary(F&O), Railway  
Board, Rail Bhawan,  
New Delhi-110001

3. General Manager, SEC Railway,  
Bilaspur, Chattisgarh.

RESPONDENTS

(By Advocate - Shri S.S. Gupta)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this Original Application, the applicant  
has sought the following main reliefs :-

"That the Hon'ble may graciously be pleased to quash-

a) The enquiry report and orders passed by  
respondent No.2 in pursuance to memorandum dt.7.3.00  
and the penalty order dt.31.10.03.

b) The major penalty charge memorandum  
No.P/SC/227/P/77 of 07.03.2000."

2. The brief facts of the case are that the applicant  
while working as Deputy Chief Personnel Officer in South  
Central Railway was issued a memorandum of charges dated  
7.3.2000 for imposition of major penalty. An enquiry  
officer was appointed to enquire into the charges levelled  
against the applicant. The charges levelled against him  
pertain to appointment of Stenographers on compassionate  
grounds in Hubli division during the year 1995. The  
enquiry officer concluded the enquiry and submitted his  
report. A copy of the enquiry officer's report was furnished  
to the applicant to enable him to represent against the

*[Signature]*

findings of the enquiry officer. The applicant submitted his representation on 8.11.2001. The representation of the applicant was considered by the disciplinary authority i.e. the General Manager, East Central Railway and the applicant was also given personal hearing by the General Manager on 17.2.2003 as requested by him in his representation dated 8.11.2001. The General Manager, after careful consideration of the representation remitted the case to the Railway Board for further action as the penalty contemplated by him was not within his competence. After considering the representation of the applicant and other relevant documents, the Railway Board imposed the penalty of 'Reduction to a lower stage in the time scale of pay for a period of six months which will have the effect of postponing future increments' on the applicant vide order dated 31.10.2003. The applicant has submitted an appeal to the President of India on 5.1.2004 (Annexure-A-2). The appellate authority did not take a decision on his appeal. Hence, the applicant approached this Tribunal by filing the present O.A. in July, 2004.

3. The respondents in their reply have stated that the applicant has not exhausted the departmental remedy of the appeal available to him. Thus, the present O.A. is premature and is not maintainable as the statutory appeal dated 5.1.2004 preferred by the applicant to the President of India i.e. the appellate authority is still pending. It is further submitted by the respondents that there is no time limit prescribed for the President for taking a decision on pending appeal.

4. Heard the learned counsel of both the parties.

5. The learned counsel for the applicant has submitted that the applicant has filed his appeal against the order of the Railway Board on 5.1.2004 and till now the respondents have not taken any decision on the appeal of the applicant.

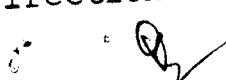
6. On the other hand, the learned counsel for the respondents has submitted that the matter is under

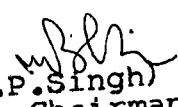
process and since the appeal is required to be decided at the highest level of the President of India, in consultation with the UPSC, the matter is pending with UPSC for quite some time. The appellate authority is, therefore, not in a position to take any decision on the appeal filed by the applicant as the advice of the UPSC is not forth-coming and the matter is pending with the UPSC. He has submitted that since procedure for considering the appeal by the President of India is a time consuming, it will take some time to take a decision on the appeal of the applicant.

7. We have given careful consideration to the rival contention and we find that a major penalty of 'Reduction to a lower stage in the time scale of pay for a period of six months which will have the effect of postponing future increments' has been imposed on the applicant. The applicant had filed his appeal on 5.1.2004 challenging the order of the disciplinary authority. More than one year has already passed and until the respondents have not taken any decision on the appeal of the applicant.

8. In the facts and circumstances of the case, we deem it appropriate that a direction can be given to the respondents to decide the appeal of the applicant within a stipulated period. We, therefore, without going into the merits of the case, direct the appellate authority to consider and decide the appeal dated 5.1.2004 filed by the applicant, by passing a speaking, detailed & reasoned order within a period of two months from the date of receipt of a copy of this order.

9. In the result, the O.A. is disposed of with the directions contained in the preceding paragraph. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

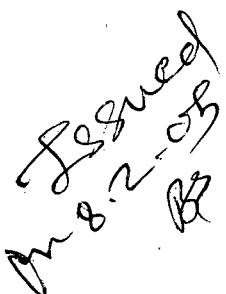
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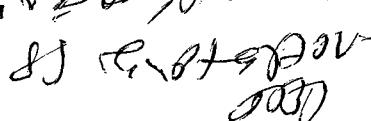
- (1) सचिव, राज्य विविध विभाग, कालापुर
- (2) अधिकारी, राज्य विविध विभाग, कालापुर
- (3) प्रदर्शनी, कालापुर
- (4) बांधकारी, कालापुर, राज्य विविध विभाग

सूचना एवं जारीरक घासापत्री है

  
उप रजिस्ट्रार

  
मेरा रजिस्ट्रार  
मेरा रजिस्ट्रार

  
D.B. Pali सप्टें. ०५/०५/०५

  
D.B. Pali सप्टें. ०५/०५/०५