

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.CIRCUIT COURT SITTING AT BILASPUR (CHHATTISGARH)Original Application No. 387 of 2002

Bilaspur, this the 25th day of September, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
 Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Shri B.K. Mondal,
 S/o Shri S.K. Mondal, aged about
 38 years, R/o. Uslapur Railway
 Station, Bilaspur Railway Division,
 South Eastern Railway, Uslapur,
 Tehsil & Distt. Bilaspur, Chhattisgarh. ... Applicant

(By Advocate - Ms. P.L. Shrivastava)

V e r s u s

1. Union of India,
 Through : Secretary,
 Railway Ministry, Rail
 Bhawan, New Delhi.
2. General Manager,
 South Eastern Railway,
 Garden Reach, Calcutta-42 (W.B.).
3. Dy. Controller of Stores,
 Railway Electrification,
 South Eastern Railway,
 Bilaspur, Chhattisgarh.
4. Shri L.N. Singh, Enquiry Officer,
 Assistant Personal Officer for
 Chief Project Manager, Railway
 Electrification, South Eastern
 Railway, Bilaspur, Chhattisgarh. ... Respondents

(By Advocate - Shri M.N. Banerjee for the official respondents)

O R D E R (Oral)Justice V.S. Aggarwal -

The applicant had earlier filed OA No. 472/1993 which was dismissed by this Tribunal because the learned counsel for the applicant could not inform the whereabouts of the applicant.

2. Thereafter shorn of the other details we deem it

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necessary to mention that applicant preferred OA No. 174/96. He had challenged the non-payment of salary for the period from 06.01.1991 till the filing of the original application. This Tribunal during the course of submission has informed that an order has already been passed removing the applicant from service. According to the learned counsel for the applicant the said order was given to him only when the counter reply was filed. This Tribunal disposed of the said OA on 15th March, 2002 holding :

"In this view of the matter, we are of the considered view that the remaining period of absence cannot be independently decided and would be decided alongwith the challenge to the removal if at all made by the applicant. In this view of the matter, the OA is disposed of with the direction to the applicant to pursue his remedy for payment of wages from 1992 till 1995 alongwith challenge to the order of removal in accordance with law. The question of limitation would not come in the way of the applicant."

3. By virtue of the present application under consideration the applicant seeks to assail the order removing him from service and also pertaining to his salary for the past period.

4. Admittedly the applicant did not prefer an appeal against the order removing him from service.

5. During the course of submission we have put in to the learned counsel for the applicant as to why when efficacious remedy in the form of appeal is maintainable, as the same has not been filed. The learned counsel urged that in writ jurisdiction there is no bar in availing alternative remedy as it may be an idle formality.

6. On both the counts the said submission must fail. This is for the reason that the High Courts have restricted their powers, not to entertain the petition till the alternative

remedies are not exhausted. Otherwise under Article 226 of the Constitution there is no restriction on the powers if so exercised. This will not be the position in the case of the Central Administrative Tribunal. The Central Administrative Tribunal is a creation of the Administrative Tribunals Act, 1985. It draws that all its powers and strength from the provisions of the said Act. The said Act clearly provides that alternative remedies should be exhausted before a person can file a petition before the Tribunal. We find no reason to make a special departure in the present case. The circumstances warrant that discretion should not be exercised to entertain the petition without the applicant having exhausted the remedies provided in law. In fact in the earlier OA No. 174/1996 this Tribunal had clearly stated that the question of limitation will not come in the way of the applicant. Therefore the applicant if so advised may file an appeal in accordance with law and pursue the further remedy available. At this stage the application held to be premature.

7. As regards the second submission for filing of the would appeal/be only a formality. No opinion need be expressed. We have really no doubt that appeal when filed shall be considered in merit. In view of the observations made above the OA is pre-mature and the same is dismissed.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

V.S. Aggarwal
(V.S. Aggarwal)
Chairman

पृष्ठांकन सं. ओ/न्या "SA".....अस्त्रायुक्त. दि.
परिचिति अर्थे प्रियतमा -

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3/6/1996
सं. S. menon, A.C.O
Mr. B. Agarwal, A.C.O
सं. S. menon, A.C.O
सं. S. menon, A.C.O

Signature
3/6/1996
3/6/1996