

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 22nd September, 2008

ORIGINATION APPLICATION NO. 370/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Nanda B son of Shri Bhenru Lal aged about 38 years, resident of Village Sunda (Mukandara), Tehsil Ataru, District Baran, Rajasthan.

.....APPLICANT

(By Advocate: Mr. Chiranji Lal Saini)

VERSUS

1. Union of India through General Manager, Western Central Railway, Jabalpur.
2. The Divisional Manager, Western Central Railway, Kota.
3. Senior Divisional Engineer, Western Central Railway (IRS) (Estt.), Kota.

.....RESPONDENTS

By Advocate: -----

ORDER (ORAL)

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

"It is most respectfully and humbly prayed that your Honour may kindly be pleased to accept and allow the OA and by an appropriate order or direction the order of termination dated 19.4.1995 (Annexure A/1) issued by the respondents may kindly be ordered to be quashed and set aside. The respondents may kindly be directed to reinstate the humble petitioner back in service with all consequential benefits.

Any other relief which this Hon'ble Tribunal deems fit may also be granted in favour of the applicant."

[Signature]

2. Briefly stated, facts of the case are that the applicant remained unauthorized absent from duty w.e.f. 12.03.1992. Accordingly the charge sheet was issued to the applicant. As can be seen from material placed on record, more particularly, letter dated 25.07.2007 (Annexure A/6), the charge sheet was served upon the applicant. Not only that the applicant has also nominated one Shri Vijay Yadav, SEF, as his Defense Assistant. The applicant was advised to attend the inquiry on 23.09.1992 by Registered AD. On 23.09.1992, the applicant appeared and requested for postponement of the inquiry proceedings, which was fixed on 28.09.1992. It appears that after that the applicant did not attend the inquiry proceedings. As such vide order dated 10.10.1992, the applicant was proceeded ex-parte and subsequently, he was terminated from service w.e.f. 19.04.1995 (Annexure A/1). It is this order, which has been challenged in this OA.

3. As can be seen from material placed on record, it is evident that applicant did not pursue the matter for almost 13 years. According to the applicant, when he approached the authorities in the year 2006 (Annexure A/2), he came to know that he had been removed from service. It is thereafter the applicant started pursuing the matter through the Union. The applicant has further stated that vide order dated 20.09.2007 (Annexure A/3), the respondents have submitted reply through Union. As such according to the applicant, the present OA is within limitation.

4. We have heard the learned counsel for the applicant. We are of the view that the present application cannot be entertained at this belated stage as applicant has not given any explanation whatsoever why he has not approached before this Tribunal or before the appropriate authority at the relevant time. As per provisions contained in Sub-Section 1 & 2 of Section 21 of the Administrative Tribunal's Act, OA has to be filed within a period of one year from the date when

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cause of action has already arisen. Thus in view of statutory provisions, this OA cannot be entertained, more particularly, when the applicant has not moved any application for condonation of delay. In view of the law laid down by the Apex Court in the case of **Ramesh Chand vs. Udham Singh Kamal** 2000 SC (L&S) 53, in absence of application for condonation of delay, the OA cannot be admitted and entertained. Further the self serving statement made by the applicant that order of termination has not been served upon the applicant, cannot be accepted. The applicant was well aware about initiation of the inquiry proceedings and not only this, he has also appointed Shri Vijay Yadav as his Defense Assistant on his behalf. Thus, it was incumbent upon him to keep track of the departmental proceedings. From material placed on record, it is evident that he did not pursue the matter and find out as to what has happened to the departmental inquiry proceedings initiated against him? He kept silent for about 13 years and it is only in the years 2006 and 2007 that the applicant made representations and took up the matter with the Union. Thus we are of the view that the present OA cannot be entertained at this stage and required to be dismissed being highly belated. The applicant on his own act and conduct has waived his right to challenge the impugned order, even if he has got some case on merit and no relief of reinstatement with back wages can be granted after a lapse of 16 years. Accordingly, the OA is dismissed at admission stage with no order as to costs.

5. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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