

**Central Administrative Tribunal
Principal Bench**

OA No.4374/2015

New Delhi, this the 19th April, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mrs. P. Gopinath, Member (A)**

Shri Amit Gupta, IRSME
Aged 46 years,
S/o. Late Shri N. C. Gupta,
Formerly ADRM,
BVP (WESTERN RAILWAY)
Presently (On Deputation)
General Manager (Mechanical)
Mega Company Ltd., Ahmedabad,
R/o. 92 Star Apartment Vaspuram
Ahmedabad.

....Applicant

(By Advocate : Mrs. Meenu Mainee)

Versus

Union of India : Through ...

1. Secretary, Railway Board
Ministry of Railways
Rail Bhawan, New Delhi.
2. General Manager
North Central Railway
Allahabad.
3. General Manager
Western Railway
Church Gate, Mumbai.
4. Chief Mechanical Engineer
North Central Railway
Allahabad.

.....Respondents

(By Advocate : Shri Shailender Tiwari)

ORDER (ORAL)

Justice Permod Kohli, Chairman :-

Through the medium of this OA following reliefs have been claimed:-

"8.1 That the Hon'ble Tribunal may be graciously be pleased to allow this application and quash the impugned orders.

8.2 That the Hon'ble Tribunal may further be pleased to pass any other or further order as may be deemed fit and proper on the facts and circumstances of the case."

2. Even though the date of impugned order has not been mentioned, however, from the copy of the impugned order (Annexure A-1), we find that the impugned order is dated 27.10.2008.

3. Admittedly, the OA is barred by time. The applicant has filed an application seeking condonation of delay. From the condonation application, it appears that the order of the disciplinary authority was passed on 27.10.2008 which is impugned herein. The applicant preferred an appeal which came to be dismissed on 05.04.2011 and a revision filed thereagainst also resulted in dismissal vide order dated 31.12.2012. The applicant had earlier made a representation dated 22.06.2012 which was said to be decided by a non speaking order. Copy of the order of dismissal of

representation has not been placed on record and seems to be a deliberate attempt not to place the said order on record. It is stated that thereafter the applicant after consulting his legal advisor submitted another representation on 12.07.2013 requesting the Railway Board to consider the case of the applicant and resolve the issue. Even when the said representation was not decided the applicant claims to have submitted a reminder on 05.06.2014. This OA has been filed on 23.11.2015. The last order passed by the competent authority is dated 31.12.2012. The first representation against the said order itself was filed after a lapse of six months i.e. on 12.07.2013 which has not been decided till date. The limitation as prescribed under (a) of Section 21 of the Administrative Tribunals Act, 1985 in respect to the order applicant is aggrieved of is one year from the date final order has been passed. In the present case, the final order was passed on 31.12.2012 by the Revisionary Authority. Under Clause (b) of Section 21 in case where an appeal or representation has been made, and a period of six months has expired without any order having been passed on such representation or appeal one year after the expiry of period of six months is the prescribed limitation. Meaning thereby one and a half years from the date of making of the representation where the representation is not decided. In

the present case even though the initial representation was also filed beyond six months, even if the date of representation i.e. 12.07.2013 is considered to be the date of commencement of the limitation, the present application has not been filed within a period of one year and six months from the date of representation and is thus barred by limitation as prescribed under Section 21 of the AT Act, 1985. There is no explanation whatsoever in this regard in the condonation application. The same is dismissed and consequently the OA.

(P. Gopinath)
Member(A)

(Justice Permod Kohli)
Chairman

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