

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

## **Original Application No.200/01043/2018**

Jabalpur, this Thursday, the 22<sup>nd</sup> day of November, 2018

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER  
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Ashok Kumar Rajput, Son of late Shri Munshi, aged about 47 years, Terminated Khalasi Grade -2 (Track Machine), Bhopal, R/o Village Gardha, Post Machera Kala, Tehsil – Bankhedi, District Hoshangabad (M.P.) - 461990 **-Applicant**

**(By Advocate – Shri Vinod Kumar Napit)**

## V e r s u s

1. Union of India, The Secretary, Ministry of Railways, Rail Bhawan, New Delhi – 110001.
2. General Manager, West Central Railway, Jabalpur (M.P.) – 482001.
3. Dy. Chief Engineer (Track Machine), West Central Railway, Bhopal (M.P.).
4. Executive Engineer/Disciplinary Authority (Track Machine), West Central Railway, Bhopal (M.P.).
5. Assistant Divisional Engineer/Competent Authority (T.M.), BPL/West Central Railway, Bhopal (M.P.) **-Respondents**

**(By Advocate – Shri A.S. Raizada)**

## ORDER(ORAL)

By Navin Tandon, AM.

The applicant has sought for the following reliefs in this

O.A.:

**“8. Relief Sought:**

8.1 Call for the entire material record pertaining to the instant controversy.

8.2 This Hon'ble Tribunal may kindly be pleased to set aside/quash order dated 29.06.2018 (Annexure A-1) passed by respondent No.2 and impugned order dated 08.08.2007 (Annexure A-2) passed by respondent no.3 and direct the respondent no.2 to decide the appeal dated 03.05.2018 (Annexure A-6) on merits by speaking order in accordance with law, in the interest of justice.

8.3 Grant any other relief, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.”

2. The brief facts of the case are that applicant was removed from service on 08.08.2007 (Annexure A-2) for his unauthorised absence w.e.f. 01.04.2004 to 18.05.2006. Against the order of removal, the applicant filed appeal on 29.06.2018, which was rejected by the order of the Appellate Authority dated 29.06.2018 stating that, “As appeal has to be put up within 45 days of order i.e. 08/08/2007 in this, the case is very very old and extraordinary delayed by 11 years and has lost relevance hence cannot be accepted.”

3. Learned counsel for the applicant submits that the applicant had filed Annexure A-5 mercy appeal (Speed Post receipt dated 07.12.2009), which remained pending with the respondents. Therefore, the delay in deciding the appeal, as

mentioned in the order dated 29.06.2018, is on the part of the respondents and his appeal ought to have been considered on merits, it has been submitted.

**4.** Learned counsel appearing on advance copy for the respondents submitted that the O.A is hopelessly time barred and is liable to be dismissed at the admission stage.

**5.** We have heard the learned counsel for the parties and gone through the pleadings.

**6.** Section 21 of the Administrative Tribunals Act, 1985 deals with limitation for filing O.A. before this Tribunal, which reads as under:-

**“21. Limitation.-** (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

7. From perusal of the aforesaid section, it is clear that under the Act, the limitation has been prescribed for filing O.A. before this Tribunal as one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has further been stated that if the application is not filed within time as stipulated in Section 21 of the A.T. Act, then the applicant

has to move a Misc. Application for Condonation of delay by explaining each day in not filing the Original Application within the limitation.

**8.** In the present case, the cause of action arose in the year 2007, when the services of the applicant were dispensed with. The applicant filed mercy appeal in the year 2009, i.e. after a lapse of two years from the date of his dismissal. He kept mum since 2009 and has approached this Tribunal in the year 2018, when his appeal has been rejected vide order dated 29.06.2018 on the ground of delay. Thus, there is an inordinate delay of nine years in filing this Original Application.

**9.** Accordingly, the O.A is dismissed *in limine* as barred by limitation.

**(Ramesh Singh Thakur)  
Judicial Member**

am/-

**(Navin Tandon)  
Administrative Member**