

CENTRAL ADMINISTRATIVE TRIBUNAL
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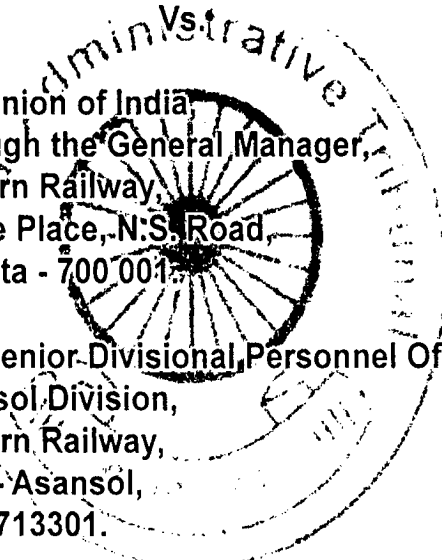
No. M.A. 679 OF 2017
O.A. 1127 of 2017

Date of order: 15.09.2017

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Ashit Baran Bandyopadhyay,
Son of Late S.C. Bandyopadhyay,
Aged about 58 years,
Working as Goods Guard/Andal,
Under the Chief Yard Master, Andal,
Eastern Railway,
Residing at Vill. & P.O. - Jatia,
P.S. - Bijpur,
Dist. - 24-Pgns. (N),
Pin - 743 135.

.. Applicant

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1. The Union of India,
Through the General Manager,
Eastern Railway,
Fairlie Place, N.S. Road,
Kolkata - 700 001.
 2. The Senior Divisional Personnel Officer,
Asansol Division,
Eastern Railway,
Dist. - Asansol,
Pin - 713301.
 3. The Divisional Operations Manager (Coal),
Asansol Division,
Eastern Railway,
Dist. - Asansol,
Pin - 713301.
 4. The Divisional Operation Manager (G),
Asansol Division,
Eastern Railway,
Dist. - Asansol,
Pin - 713301.
 5. The Chief Operations Manager,
Eastern Railway,
Fairlie Place,
N.S. Road,
Kolkata - 700 001.
 6. The Chief Yard Master,
Andal, Asansol Division,

Eastern Railway,
Pin - 713 321.

7. Shri Bijoy Kumar,
TI/CHC/Asansol & Enquiry Officer,
Eastern Railway,
District - Asansol,
Pin - 713301.

.. Respondents

For the Applicant : Mr. K. Sarkar, Counsel
Ms. A. Sarkar, Counsel

For the Respondents : Mr. S.K. Das, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Ld. Counsel for both sides are present and heard.

2. This Original Application has been filed under Section 19 of the Administrative Tribunal, 1985 seeking the following relief:-

"(i) To direct the respondents to cancel, withdraw and/or rescind the chargesheet bearing SF-V, No. TI/UA/13 (ABB) dated 17.7.2014 as reflected in the Enquiry Report/Fact Finding Report, as contained in Annexure "A-12" herein;

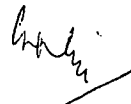
(ii) To direct the respondents to cancel, withdraw and/or rescind the purported enquiry proceedings and the Fact Finding Report (alleged to be the Enquiry Report) dtd. 21.8.2015 communicated vide memo dated 1.9.2015, as contained in Annexure "A-12" herein;

(iii) To direct the respondents to allow the applicant to resume his duties attached to the post of Goods Guard forthwith;

(iv) To direct the respondents to produce the entire records of the case including the impugned chargesheet dated 17.7.2014 for effective adjudication of the issue involved herein;

(v) And to pass such further or other order or orders as to this Hon'ble Tribunal may deem fit and proper."

3. An application for condonation of delay arising from the said O.A. has been filed by the applicant seeking condonation of 505 days of delay caused in filing the O.A. No. 350/01127/2017. In para 2 of the M.A. the applicant has stated as follows:-



"2. That the applicant challenged the chargesheet dated 17.7.2014, enquiry proceedings dated 18.12.2014 & 30.7.2015 and Fact Finding Report (alleged to be the Enquiry Report) dated 21.8.2015 and further prayed for allowing him to resume his normal duties, since he was absent from duties from 6.7.2012 due to his illness from chronic asthma, hypertension and high cholesterol diseases and specifically for his wife's illness who was then bedridden since her two ovaries, two tubes and uterus were removed by way of surgery in B.R. Singh Hospital of Eastern Railway and ultimately she died on 31.1.2017 leaving the applicant in helpless condition and thus he has been suffering from mental depression. However, your applicant is at present ready and willing to resume his normal duties."

4. The explanation as contained in Para 2 of the M.A. is by way of clarifying as to why the applicant was on unauthorised absence. There are absolutely no grounds in the Miscellaneous Application explaining the delay in filing the Miscellaneous Application excepting to say, "that the situation was beyond the control of the applicant."

5. As no satisfactory explanation have been advanced as to how the application has been filed after a delay of 505 days, we consider the application to be hopelessly barred by limitation.

6. We have heard the Ld. Counsel for the applicant and have perused the documents on record. Section 21 of the Administrative Tribunal Act, 1985 provides for limitation of filing an O.A. as under:-

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

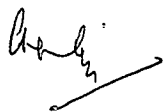
(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(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.

Xxxxxxx

Further, sub Section 3 of Section 21 of the said Act, provides as under:-

"(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 sub-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. As laid down by the Hon'ble Apex Court in the matter of **Chennai Metropolitan Water Supply & Sewerage Board and ors. V. T.T. Murali Babu**, reported in AIR 2014 SC 1141:-

"The doctrine of delay and laches should not be lightly brushed aside."

Further in **Lanka Venkateswarlu v. State of AP (2011) 4 SCC 363**, the Hon'ble Apex Court has stated as under:-

"XXXX XXXXXXXX XXXXX
26. the High Court proceeded to condone the delay. In our opinion, such a course was not open to the High Court, given the pathetic explanation offered by the respondents in the application seeking condonation of delay."

8. We are of the considered view that in the absence of any explanation to provide convincing grounds for condonation of delay of 505 days, the application is devoid of merit. The maxim of "vigilantibus, non dormientibus, jura sub-veniant" (law assists those who are vigilant and not those sleeping over their rights) is applicable in this case.

9. Hence the M.A. seeking condonation of delay is dismissed.

10. The O.A. No. 1127 of 2017 is dismissed accordingly.

(Dr. Nandita Chatterjee)
Administrative Member

(Manjula Das)
Judicial Member

SP