

46

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION NO.210/00435/2019

Date of decision : 05th July, 2019

CORAM : R. VIJAYKUMAR, MEMBER (ADMINISTRATIVE)
RAVINDER KAUR, MEMBER (JUDICIAL)

Ashok Bapu Kamble, aged 64 years,
Flat No.504, Chandravilla CHS Ltd.,
Navda Colony Phase II, Panvel, Navi Mumbai 410 208
Last employed with respondent as points man – BCT. .. *Applicant*
(By Advocate Ms. *Shivani S. Kunder*)

VERSUS

Sr. Divisional Operations Manager – BCT,
Western Railway having its office at Divisional Office,
Mumbai Central, Mumbai 400 008. *Respondents*

O R D E R (Oral)
Per : R.Vijaykumar, Member (A)

This application is filed on 11.06.2019
impugning orders of the Disciplinary Authority
dated 07.05.2009 removing the applicant from
service for absences from the year 2006 to 2008
and by the Appellate Authority in orders dated
25.05.2012 confirming the orders of the
Disciplinary Authority. During this appeal, the
applicant has argued that when he had been
nominated for training for 10 days in order

dated 11.09.2008, he was unable to attend because he met with an accident and then proceeded to his hometown to attend to his father who had a heart attack. In response to the applicant's request dated 18.07.2012, the respondents passed order on 24.06.2013 (Annexure G) denying him compassionate allowance. The applicant has thereafter filed this OA and the reliefs claimed are as below:

"8.(i) That this Hon'ble Tribunal be pleased to set aside the order dated 25/05/2012 passed by the Additional Divisional Railway Manager (O)-BCT of respondent on revision petition dated 25/4/2012 upholding penalty imposed under rule 6 of the Railway servants (Discipline and Application) Rules 1968 and under Rule 3(i) (ii) and (iii) of Railway Services Conduct Rule 1966 by Divisional Operations Manager – BCT of respondent vide order NIP of even no. dated 7/5/2009;

8.(ii) That this Hon'ble Tribunal be pleased to direct the respondent to provide employment to his dependents in lieu of applicant as per the provisions of 6(viii) The Railway Servants (Discipline & Appeal) Rules 1968 with immediate effect;

8(iii) That this Hon'ble Tribunal be pleased to direct the respondent to release employment dues viz. Gratuity, provident fund, pension grant compassionate allowance, with immediate effect to the Applicant;

8.(iv) That be pleased to direct the respondent to pay compensation of Rs.25,00,000/- to Applicant on account of loss of his current and future earning potential due to accident during the course of employment."

2. During arguments the applicant was represented by learned counsel, nominated from the Maharashtra State Legal Aid Society was heard at the admission stage on the MA for condonation of delay wherein it is noted as 6 years and four months. For this, learned counsel vehemently pleads that the applicant was suffering from a mental disorder ever since he suffered a left forearm accident in the year 2003 and for which the Railway Hospital had provided support for his arm using an iron rod. However, no details of the mental disorder are provided by the applicant in this OA.

3. Learned counsel for the applicant who was granted time to review the materials for not appearing for the disciplinary inquiry process and current delay in filing, could only point to some problems of malaria fever and presence of the parasite in the applicant's blood in 2006 but such aspects and their presentation as arguments that would essential amount to a

re-enquiry into the facts of the disciplinary enquiry. At the preliminary stage, it is necessary for this Tribunal to look into the aspect of delay and no proper reasons have been put forth to explain the delay which could be considered for condonation.

4. In the circumstances, MA No.401/2019 for condonation of delay is rejected and the OA is accordingly held to be not maintainable and is dismissed without any order as to costs.

(Ravinder Kaur)
Member (Judicial)

(R. Vijaykumar)
Member (Administrative)

ma.

51
09/7/19