

Reserved
(On 09.10.2019)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 22nd day of October 2019

Original Application No. 330/00875 of 2018

Hon'ble Ms. Ajanta Dayalan, Member – A
Hon'ble Mr. Rakesh Sagar Jain, Member – J

Santos Kumar, S/o Sri Anmol Singh, Helper – II, Bindaki Road, Telecommnation, North Central Railway, Kanpur. R/o – Villl – Mahawalpur, Post – Dulhipur, District Chandauli.

. . .Applicant

By Adv: Shri Bipin Bihari

V E R S U S

1. Union of India through General Manager, North Central Railway (NCR), Allahabad.
2. Divisional Railway Manager (DRM), North Central Railway (NCR), Allahabad.
3. Senior Divisional Signal & Telecommunication Engineer / Appellate Authority, North Central Railway (NCR), Allahabad.
4. Divisional Signal & Telecommunication Engineer / S.W. North Central Railway, Kanpur.
5. Senior Section Engineer, Telecommunication, North Central Railway Kanpur.
6. Inquiry Officer Sri V.K. Mishra, SE/Sig./RRI/CNB, North Central Railway, Kanpur.

. . . Respondents

By Adv: Shri Atul Kumar Shahi

ORDER

By Hon'ble Ms. Ajanta Dayalan, Member – A

This OA has been filed by the applicant Santos Kumar seeking direction to respondent No. 3, in the nature of mandamus to decide the departmental appeal dated 20.07.2012 filed by the applicant, which is stately still pending with the appellate authority. The applicant has also sought interim order to the same effect.

2. Learned counsel for the applicant stated that the applicant was appointed as Helper – II in North Central Railway on compassionate ground vide order dated 17.11.2004. On 04.03.2008, he was charge sheeted for being absent from duty since 27.07.2007 without information and without taking permission from the authorized officer. Inquiry Officer was appointed. According to the applicant, ex-party inquiry was conducted and based on that, disciplinary authority passed punishment order dated 29.01.2009 removing the applicant from service. The applicant has alleged that this order was not received by him and it was only in 2012, in response to RTI query that this order was provided to him. He has stated that, thereafter, the applicant preferred an appeal dated 20.07.2012, which is still pending with the department.

3. During the course of arguments, learned counsel for the applicant concluded that the appellate authority needs to pass order on the appeal preferred by the applicant.

4. Learned counsel for the respondents stated that this OA is highly time barred – the same having been moved only in 2018 whereas, the cause of action arose way back in 2009. He stated that the order of the disciplinary authority was duly communicated to the applicant. However, as he was not available at his residence, the same was returned undelivered. He also stated that the applicant has failed to prefer an appeal within time prescribed. He is now covering this delay – both in filing of appeal and in filing of OA – by trying to obtain order of this Tribunal for disposal of appeal. Learned counsel for the respondents, therefore, objected to condonation of delay and also to passing order in the OA.

5. We observe that the present OA is quite limited – i.e. for deciding the appeal preferred by the applicant against order of the disciplinary authority dated 29.01.2009. We also observe that it is true that the appeal has been preferred only on 20.07.2012 – i.e. almost 3½ years after passing of the punishment order by the disciplinary authority. We also note that the dismay that the OA has been filed only on 21.08.2018 – i.e. six years after filing of appeal. Therefore, there is no doubt that the applicant has not been pursuing his case diligently. Rather he has slept over the matter for years before taking any action on his part towards redressal of his grievances.

6. It is settled law, as per catena of judgments pronounced by the Hon'ble Apex Court, including that of **C. Jacob v. Director of Geology and Mining - (2008) 10 SCC 115** that law of limitation has to be strictly enforced and the person who sleeps over his rights loses the right itself. Besides, delayed representation or repeated representations do not extend the period of limitation.

7. It is also observe that Section 21 of the Administrative Tribunals Act 1985 provides that no application shall be admitted by the Tribunal beyond the time period prescribed therein. Moreover, this Section is worded in negative terms and hence has to be applied strictly. The OA, therefore, needs to be dismissed on the ground of limitation.

8. In view of the above, we find that the OA is barred by limitation. MA No. 1843/18 is dismissed. Accordingly, the OA is also dismissed being time barred.

(Rakesh Sagar Jain)
Member – J

(Ajanta Dayalan)
Member – A