

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/00675/2019

Date of Order : 17-09-2019

Between :

Amruth Heeraman, Ex-Khalashi,
T.No.1698, S/o Heeraman,
Age : 59 years, R/o Pancghasil Nagar,
Near Railway Colony, Taluk Purna,
Dist Parbhani, Maharastra, Pin-431511,
Presently residing at Secunderabad.

....Applicant

AND

1. The Union of India,
Represented by Secretary,
Chairman, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager,
South Central Rail, Personnel Branch,
Rail Nilayam, Secunderabad.
3. Chief Mechanical Engineer,
Rail Nilayam, Secunderabad.
4. Chief Personnel Officer,
Personnel Branch, Secunderabad.
5. The Divisional Railway Manager,
Personnel Branch, Nandev Division,
Nandev.
6. The Divisional Railway Manager,
Personnel Branch, Hyderabad Division,
Secunderabad.

...Respondents

Counsel for the Applicant: Mr. R. Yogender Singh

Counsel for the Respondents : Mrs. A. P. Lakshmi, SC for Rlys

CORAM :

THE HON'BLE MRS.NAINI JAYASEELAN: ADMINISTRATIVE MEMBER

ORAL ORDER

(per Hon'ble Mrs.Naini Jayaseelan, Administrative Member)

Heard Mr. R. Yogender Singh, learned counsel for the applicant and Mrs. A. P. Lakshmi, learned Standing Counsel for the Respondents.

2. The applicant was appointed as CMR Khalashi in the year 1972 and his services were regularized vide order dated 30.05.1983. Thereafter he was issued with show cause notice for unauthorized absence from 19.04.1988 to 27.11.1988. The applicant submitted his explanation dated 14.12.1988 to the show cause notice. However, penalty order of removal from service was issued vide order dated 28.09.1989. The applicant further submits that he made several representation seeking reinstatement / compassionate appointment / compassionate pension. Thereafter the applicant has also filed OA No.436/2011 and the same was withdrawn with liberty to file a fresh OA after obtaining necessary documents. Hence the present O.A.

3. During the hearing, the counsel for the applicant produced the original order dated 24.07.2003 wherein his request for reinstatement into service and sanction of compassionate allowance was rejected. Counsel for the applicant further states that, after rejection of his request for compassionate allowance, the applicant approached this Tribunal and that

this Tribunal vide order dated 22.11.2012 in OA No.436/2011, permitted the counsel for the applicant to withdraw the OA with the liberty to file a fresh OA after obtaining all the necessary documents. The OA was therefore dismissed as withdrawn.

4. The present OA has been filed on 18.07.2019 after a period of six years. In the meanwhile the applicant has been making representations to the President Secretariat which was forwarded to the Ministry of Railways and duly replied to, in which it is categorically stated that since the applicant remained absent unauthorisedly from 19.04.1988 to 27.11.1988, Disciplinary Proceedings were held against the applicant and since the applicant did not attend the enquiry, the proceedings were conducted ex-parte. The Enquiry Officer held the charges as 'proved'. Thereafter, punishment of removal from service was imposed on the applicant vide order dated 30.09.1989 and the same penalty was confirmed by the Appellate Authority as well as the Revising Authority. The applicant did not file any OA challenging either the orders of the Disciplinary Authority, Appellate Authority or Revising Authority. Moreover his representation for sanction of Compassionate Allowance was also rejected in the year 2003. Even assuming that the period for filing the OA is taken from the date of the final orders of the Tribunal on 22.11.2012, there is a delay of more than seven years. No condonation of delay application is on record. Under section 21 of the Administrative Tribunal's Act, the limitation prescribed is one year and in the present case the delay is more than six years. The counsel for the applicant argued that, in *Thankappan Nair Vs. State of*

Kerala [2001(3) 2nd Kerala 464 (WA No.2966/2000], the Division Bench of the Hon'ble High Court of Kerala though fit to direct reconsideration of a dismissed officer's request for Compassionate Allowance for which he had applied 28 years after his dismissal. Similarly a Division Bench of Bombay High Court in *R.S.Sharma Vs. Union of India & Anr. [2004 (III) LLJ 191 Bom]* directed reconsideration of a dismissed officer's request for Compassionate Allowance for which he had applied 11 years after his dismissal. Only recently, in OA No.1523/2013, decided on 29.01.2016, where the removed officer happened to apply for Compassionate Allowance 30 years after his dismissal, the Andhra Pradesh High Court has set aside the order rejecting his application and directed reconsideration in *Md. Abdul Samad Vs. General Manager, South Central Railway & Ors.*

5. The learned Standing Counsel for the Respondents rebutted arguments of the counsel for the applicant that the case law cited is for application of grant of Compassionate Allowance and not applicable for filing of the Original Application after the claim of the applicant for Compassionate Allowance has been rejected.

6. Therefore, in view of the above, as well as, as per Section-21 of Administrative Tribunal's Act, the OA is barred by limitation. It is noticed that section 21(3) also permit the Tribunal to satisfy itself for condoning the delay had the applicant shown sufficient cause in making the application, which reads as under :

"21. Limitation – (1)
(a)

(b)

(2)

(a)

(b)

(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."

In the present OA, while the applicant has been making representations at various forums, it cannot be stated that there was any sufficient cause even for condoning the delay taking into account the representation.

7. In view of the above, the Original Application is dismissed as devoid of merits. In the circumstances of the case, there shall be no order as to costs.

(NAINI JAYASEELAN)
ADMINISTRATIVE MEMBER

Dated : 17th September, 2019.
Dictated in Open Court.

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