

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15027 of 2013

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Arjun Prasad Mandal, Son of Tarni Prasad Mandal, resident of Village - Chandan Nagar, P.S. - Barari, District – Katihar. Petitioner.

Versus

1. The Union of India through the General Manager East Central Railway, Hajipur.
 2. The Senior Divisional Manager, Samastipur.
 3. The Divisional Railway Manager (P), Settlement, Samastipur.
 4. The Assistant Engineer, East Central Railway, Samastipur.
 5. The Disciplinary Authority, East Central Railway, Samsatipur.
- Respondents.
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Appearance :

For the Petitioner : Mr. Shekhar Singh, Adv.

For the Railway : Mr. Sunil Kumar Ravi, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 28-04-2015

The writ petitioner challenges the order of the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the ‘Tribunal’) dated 06.11.2012 passed in O.A. No.800 of 2012 and Misc. Application No.447 of 2000, whereby the Tribunal refused to condone the delay in filing the application.

Heard learned counsel for the petitioner and learned counsel for the Railways and with their consent, this writ application has been heard for final disposal at this stage itself.

The writ petitioner was a 4th grade employee had

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joined Railways in 1992. On 26.03.2001 he left the service without authorization and remained unavailable. In the year 2002, a disciplinary proceeding was initiated against him for unauthorized absence. He filed a representation in the year 2003 but remained absent. The disciplinary proceedings were concluded *ex parte* in 2008 and order of removal from service was passed.

Petitioner's case is that he came to know of this order in October, 2011 where after he sent a legal notice and then was approaching the Tribunal. It was, accordingly, prayed before the Tribunal to condone the delay. The Tribunal noticing these facts came to a finding that the petitioner was, in fact, missing from service right from 2001. He was not working all along because the dismissal order having been passed in 2008, if he was working, he would have known of it immediately. He was not found and ultimately the Railways could manage to service the copy of dismissal on him only in 2011. It is not the case that he was unaware of the proceedings. This was in the year 2003. The Tribunal thus refused to entertain the application against his dismissal which had been passed four years earlier. We may only add that having received the dismissal order, the petitioner did not

prefer the statutory appeal and rushed to the Tribunal straight way.

In the aforesaid facts, we are of the view that the Tribunal did not commit any error in not entertaining the application. Accordingly, this writ application is dismissed.

(Navaniti Prasad Singh, J.)

(Rajendra Kumar Mishra, J.)

Trivedi/NAFR

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