

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.27923 OF 2017

ORDER

The case of the petitioner, as per the averments made in the affidavit filed in support of the writ petition is that he was appointed as RPF constable on 23.07.1980. While working under the control of the 3rd respondent – Assistant Security Commissioner, he fell sick due to mental disorder during the period from 1.1.2004 to 25.7.2007. The 3rd respondent issued charge sheet dated 15.7.2004 and eventually, by proceedings of the 2nd respondent – Senior Divisional Commissioner, dated 13.7.2005, he was terminated from service. After recovery from illness, he filed appeal dated 28.7.2007, but as there was no response, his wife Smt. B.Mutyalamma filed mercy petition to the General Manager of East Cost Railway. The Chief Personal Officer of East Cost Railway directed the 2nd respondent to submit his remarks vide proceedings dated 14.3.2008. The 1st respondent – Union of India, represented by the Chief Secretary Commissioner, Railway Protection Force, vide proceedings dated 24.3.2008, advised the 2nd respondent to instruct the petitioner to submit appeal/revision to appropriate authority with grounds of delay in submission of appeal for consideration by appropriate authority on merits. The further case of the petitioner is that though the office of the 1st respondent directed the 2nd respondent to communicate the order of the 1st respondent directing the petitioner to submit appeal, the 2nd respondent has not communicated the order of the 1st respondent and when the petitioner sought for information about his appeal, the 2nd respondent has informed the 1st respondent about non-communication of the orders vide proceedings

dated 30.03.2017. The further case of the petitioner is that however in pursuance of the proceedings of the 1st respondent dated 24.3.2008, he filed appeal dated 24.4.2017 to the 1st respondent by way of speed post and the same was received by the office of the 1st respondent. The grievance of the petitioner is that though he filed appeal, the 1st respondent has not passed any orders. Hence the writ petition.

The learned counsel for the petitioner while reiterating the above averments sought for a direction to the 1st respondent to dispose of the appeal filed by the petitioner.

Sri Pratap Narayan Sanghi, learned counsel appearing for Smt. Pushpender Kaur, learned Standing Counsel for Railways, submits that the petitioner was removed from service by proceedings dated 13.07.2005 and the appeal is stated to have been filed on 24.4.2017 without any application seeking for condonation of delay and on the ground of laches alone, the writ petition may be dismissed.

As per the averments made by the petitioner it could be seen that he filed appeal on 28.07.2007 and as there was no response, his wife filed mercy petition and the 1st respondent vide his proceedings dated 24.3.2008 advised the 2nd respondent to instruct the petitioner to submit appeal/revision petition to appropriate authority with grounds of delay in submission of appeal for consideration by appropriate authority on merit. Along with the writ petition, the petitioner has filed material papers, where-under he filed copy of the letter dated 30.03.2017 addressed by the 2nd respondent to the 1st respondent, wherein it is stated as under:

“After examining the above mercy petition, it was informed vide CSC/EcoR/BBS’s letter dated 1855 dated 24.03.2008 that Smt. V.Mutyalamma may be advised to advice her husband to file appeal/revision petition to appropriate authority with grounds for delay in submission of the appeal which will be considered by appropriate authority on merit.” (Copy enclosed)

As per record and as per the version of the then dealer, the follow up action of communicating the above remarks to the Ex-Constable has not been done by this office as there is no further correspondence with the party after serving of the removal order.”

From the above, it could be seen that as there was no further correspondence with the petitioner after serving of the removal order, the 2nd respondent informed the 1st respondent that follow up action of communicating the remarks of the 1st respondent to advise the petitioner to file appeal, could not be communicated to the petitioner. Be that as it may. As the appeal stated to have been filed by the petitioner on 24.4.2017 before the 1st respondent, is pending consideration, without expressing any opinion on merits, the writ petition is disposed of directing the 1st respondent to dispose of the appeal filed by the petitioner, and pass appropriate orders in accordance with law.

No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

DATE:28—08—2017

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