

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 875 of 2019**

Damini Kudada D/o Late Vijay Kumar Kudada Aged About 18 Years Student, R/o Village Shiv Vihar, Near Ganesh Mandir, Thana Torwa, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. South East Central Railway Through General Manager, District Bilaspur Chhattisgarh.
2. Divisional Railway Manager South East Central Railway, Bilaspur Chhattisgarh.
3. Sr. DPO South East Central Railway, Bilaspur Chhattisgarh.
4. Sr. Divisional Operation Manager South East Central Railway, Bilaspur, Chhattisgarh.
5. Assistant Operation Manager (Finance), South East Central Railway, Bilaspur, Chhattisgarh.
6. Divisional Operation Manager South East Central Railway Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Soumya Rai, Advocate.
For Respondent/Railways	:	Shri Amit Buxy, Advocate on behalf of Shri Abhishek Sinha, Standing Counsel.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**25/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. An Original Application was filed by the ex-employee, namely, Vijay Kumar Kudada of the Railways before the Central Administrative Tribunal, Jabalpur Bench at Bilaspur (hereinafter referred to as the 'Tribunal'). Original Application was registered as OA No.934 of 2013. In the OA, the decision of the Respondent-Railways of removing him from the post of Junior Clerk was assailed.

3. The ex-employee was working as a Porter in the South Eastern Railway. He earned promotion to the post of Senior Porter and subsequently, on the ground of medical de-categorisation, he was adjusted as a Junior Clerk at Korba. This appointment was done on 23.03.2004.

4. On 22.02.2008, a memorandum of charge was served for imposing of a major penalty. Enquiry was held and the charge of unauthorised absence came to be established including the fact that he was habitually absent from duty. On 11.07.2008, the disciplinary authority ordered his removal from service. His appeal was dismissed on 12.11.2008. He filed a revision. The revisional authority also dismissed the revision on the ground that there was no case made out for interference either with the order of punishment or the order of the appellate authority. After 2008 decision, he chose to approach the Central Administrative Tribunal, Jabalpur Bench at Bilaspur by filing OA in the year 2013.

5. The Tribunal after hearing the parties took note of the fact as to the background under which the order came to be passed, but finally held that it was bound by Section 21 of the Central Administrative Tribunal Act, 1985. Section 21 deals with limitation and the embargo imposed upon such Tribunal in entertaining belated applications.

6. We have heard learned counsel appearing for the Petitioner who has assailed the order dated 02.05.2016 passed in OA No.934 of 2013. He does not point out any legal infirmity in the view so taken by the Tribunal that there was an extraordinary delay of almost 4½ years in moving the Tribunal. He further also fails to offer any explanation to us as to why such period could be condoned for valid and cogent reason.

7. We also take notice of the fact that the employee is no more and it is the daughter who is pursuing the issue now.

8. Since the power of judicial review can only be exercised within the limited ambit and nothing in terms of infirmity has been pointed out which makes the order of the Tribunal worthy of interference, the view that the OA was delayed by 4½ years and with no explanation coming forth, dismissal of OA cannot be said to be an erroneous view.

9. We also examined the matter even otherwise on the merits as such. We find that the father of the present Petitioner has been absent from duty on a regular basis without any authority of law and explanation. A regular departmental enquiry was held with due opportunity, in fact, the ex-employee also has accepted the guilt, which is reflected from the record as well.

10. The facts therefore do not add up where interference is required with the impugned order.

11. Writ application therefore has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE