

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.3538 of 2020**

{Arising out of order dated 11.04.2014 passed by learned Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting, Bilaspur in Original Application No.203/00249 of 2014}

Raja Ram Aged About 51 Years S/o- Shri Akil Ram, By Post -Ex. Trackman Under Sse/p-Way/kgs, R/o- House No. 180/66, Store Para, Village - Purena, Bhilai - 3, Distt. Durg (Chhattisgarh) 490023

---- **Petitioner****Versus**

1. Union of India Through The General Manager (G.M.), S.E.C.R., Zonal Office Building, Bilaspur (C.G.) 495004
2. Additional Divisional Railway Manager, S.E.C.R., Office At Divisional Railway Manager, Bilaspur (Chhattisgarh) 495004
3. The Sr. Divisional Engineer (Central), S.E.C.R., Office At Divisional Railway Manager, Bilaspur (Chhattisgarh) 495004
4. The Assistant Divisional Engineer, S.E.C.R. Railway At Pendra-Road, Bilaspur (Chhattisgarh) 495119

---- **Respondents**

For Petitioner	: Shri J.A. Lohani, Advocate
For Respondents	: Shri H.S. Ahluwalia, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****14.09.2020**

1. Interference declined by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting, Bilaspur (hereinafter referred to as 'Tribunal') as per Annexure P/1 order with the disciplinary proceedings finalized about a decade ago, is put to challenge in this petition at the instance of the Applicant in the Original Application.

2. Heard Shri J.A. Lohani, the learned counsel for the Petitioner at length.
3. It is the contention of the Petitioner that the Annexure A/1 order has been passed by the Tribunal without properly considering the scope of challenge raised in the Original Application, but for simply holding that the power of the Tribunal to interfere with the disciplinary matters is very little.
4. The sequence of events reveals that, the Petitioner while serving in the Respondent-Railways was found unauthorizedly absent for quite long, which led to issuance of Annexure A/1 charge-sheet. No explanation was submitted by the Petitioner and even he did not participate in the inquiry. Based on the findings rendered by the Inquiry Officer holding the Petitioner as guilty, punishment of removal from service was ordered as per Annexure A/2 order. The Disciplinary Authority however sanctioned compassionate allowance in terms of the relevant provisions of law, not exceeding $2/3^{\text{rd}}$ of the gratuity. Met with the situation, the Petitioner preferred an appeal before the Appellate Authority, which however did not turn to be fruitful and it came to be dismissed as per Annexure A/6 order dated 19.11.2009. Though the Petitioner filed a review petition, it also came to be dismissed by the Reviewing Authority as per Annexure A/9 order dated 30.09.2010. It was in the said circumstance, that the Petitioner chose to challenge the said proceedings by filing Original Application before the Tribunal.
5. On going through the contents of the order under challenge, it is seen that the matter was dealt with by the Tribunal elaborately and it was accordingly, that the interference was declined on merits by passing Annexure P/1 order. We find it difficult to accept the version put-forth by

the Petitioner that the Tribunal has approached the issue only in a casual manner, expressing helplessness as to the limited jurisdiction in disciplinary matters. The factual analysis is sought to be supported by various rulings rendered by the Apex Court on the point discussed therein and it was accordingly, that the finding has been reached. Operative portion of the verdict as contained in paragraph-7 is to the following effect:

“7. In the Instant case, the Applicant did not submit any representation/written submissions against the charge-memo issued to him. He did not participate in the departmental inquiry. The fact of his unauthorized absence is not in dispute. According to his own statement, he was absent from duty from 21.03.2004 to 04.05.2009. He did not submit Medical Certificate(s) from the competent/authorized Railway Medical Officer for his absence from duty. In the facts and circumstances of the case and the legal position set out above, the orders of the disciplinary Authority dated 8.8.2007(Annexure A/2), of the Appellate Authority dated 19.11.2009 (AnnexureA/6) and of the Revisional Authority dated 30.09.2010(Annexure A/9) warrant no interference by this forum. However, the Respondents are directed to consider the payment of compassionate allowance as provided for in Rule 65 of the railway Services(pension) Rules, 1993, reiterated by the Railway Board vide letter No. F(E)III/2003/PNI/5 dated 09-05-2003(RBE79/2005) containing guidelines/procedure, and as already approved/sanctioned by the Disciplinary Authority. The Applicant may submit a representation making

his claim in this regard within 30 days of the receipt of this order on which after consideration the concerned Respondent authority should pass orders within 90 days of its receipt taking into account the financial position of the family, unhindered by the long time interval from the passing of the order of the Disciplinary Authority.”

6. With regard to the alleged non-payment of the compassionate allowance as provided in Rule 65 of the Railway Services (Pension) Rules, 1993, reiterated by the Railway Board vide Letter No. F(E)III/2003/PNI/5 dated 09.05.2003 (RBE 79/2005), granting liberty to the Applicant to make a representation in this regard, giving consequential direction to have the matter finalized within a time frame, the learned counsel submits that, even though Annexure P/2 representation has been filed as directed by the Tribunal, no action has been taken so far. If it be so, the remedy of the Petitioner is something else, as he has to pursue appropriate steps which however cannot be by filing writ petition before this Court challenging the order passed by the Tribunal. The finding rendered by the Tribunal is well supported by reasons and as such, we do not find any merit to interfere with the order passed by the Tribunal.
7. It is also relevant to note that the disciplinary proceedings were finalized pursuant to rejection of review petition as per Annexure A/9 order in September 2010. It took nearly four years for the Petitioner to have moved the Tribunal by filing Original Application, as it was done only in the year 2014. The Original Application was finalized by the Tribunal as per Annexure P/1 order on 11.04.2014. The correctness of the said order is challenged by the Petitioner through this writ petition filed more than

after six years thereafter. Absolutely no reason is stated for the inordinate delay in pursuing the matter. The power and jurisdiction of this Court is never to extend relief to such a person who was taking rest on armchair, unmindful of his rights and liberties in this regard. We find support from the ruling rendered by the Hon'ble Supreme Court in the matter of **Rabindra Nath Bose and Others v. Union of India and Others** reported in **AIR 1970 SC 470**.

8. In the said circumstance, we do not require any second thought to hold that the writ petition is not liable to be entertained; both on merits and also in view of the laches involved. The writ petition is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge