

(2014) 07 MP CK 0130
In the Madhya Pradesh High Court
Case No : Writ Petition No. 18532/10

Jagdish Prasad Patel

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-07-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 227

Citation : (2014) 07 MP CK 0130

Hon'ble Judges : Rajendra Menon, J;Alok Verma, J

Bench : Division Bench

Advocate : Sameer Beohar, Learned Counsel, Advocate for the Appellant;
Himanshu Shrivastava, Learned Counsel, Advocate for the Respondent

Judgement

1. Calling in question tenability of an order dated 6th September, 2010 Annexure P-12 passed by the Central Administrative Tribunal in O. A. No. 409/08 dismissing an application filed by the petitioner under Section 19 of the Administrative Tribunal's Act on the ground of delay in filing the statutory appeal, this writ petition has been filed under Article 227 of the Constitution.

2. Petitioner was working as a Gramin Dak Sevak in the Postal Department and it seems that proceedings were initiated against him under the Gramin Dak Sevak (Conduct and Employment) Rules 2001 for certain acts of commission and omission. A charge-sheet was issued to him and in the departmental enquiry conducted, he was exonerated. However, a de-novo enquiry was conducted in which finding of guilt was recorded against him. He preferred a departmental appeal against it but on the ground of delay, the appellate authority has dismissed the appeal. Petitioner challenged the same before the Tribunal in the proceedings under Section 19 of the Administrative Tribunals Act and the Tribunal finding that the delay in filing of the appeal was not properly explained and the counsel was unable to explain the reason as to why there is a delay in filing of the appeal and there was no reasonable justification given for the delay

occasioned and, therefore, the Tribunal did not go into the merits of the matter, dismissed the application as the appeal was filed belatedly.

3. The manner in which the Tribunal has dismissed the application cannot be appreciated by us. When an employee is dismissed from service and when the departmental appeal is also not considered, the only independent forum available to such an employee is the Administrative Tribunal or the appropriate Court of law where the action of the employer is challenged.

4. The independent forum being the only remedy available to the employee to ventilate his grievance with regard to his dismissal, the Court or authority before whom this adjudication is to be held should be liberal in dealing with the matter and should make an endeavour to decide the dispute on merit, instead of rejecting it on technical grounds of limitation. Normally, the Courts and authority should be liberal in condoning the delay and entertaining the dispute on merit. In this case, the petitioner from para 5.20 onwards has explained the circumstances which resulted in cause of the delay, the same being reasonable, it is a fit case where the delay in filing of the departmental appeal and the application should be condoned and the matter decided on merit.

5. Accordingly, this petition is allowed. The order impugned Annexure P-12 dated 6.09.10 is quashed. The delay in filing of the application and the default on the part of the petitioner in not filing the appeal before the departmental authorities are condoned and the matter is remanded back to the Tribunal to decide the question of dismissal of the employee, question of holding the de-novo enquiry and the propriety of the punishment imposed in accordance with the law on merit.

6. The parties are granted liberty to amend the pleadings and bring it in conformity with the questions framed by us.

7. With the aforesaid, the petition stands allowed and disposed of.