

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2747/2002

New Delhi, this the 8th day of September, 2003

Hon'ble Smt. Lakshmi Swaminathan Vice-Chairman (J)
Hon'ble Sh. S.K. Nair Member (A)

Sh. Amar Pal
S/o Sh. Chhittu Ram
R/o Staff Quarter
Sant Parmanand Hospital
Jamuna Bazar, Delhi - 6.

...Applicant

(By Advocate Sh. M.C. Dhingra)

V E R S U S

1. Northern Railway
through General Manager
Baroda House, New Delhi.
2. Appellate Authority
Under Rule 18 of
Railway Service Conduct Rules, 1968
Northern Railways Headquarters Office
Baroda House, New Delhi.
3. The Secretary to Controller of Stores
(COS), Stores Branch, Northern Railway
Baroda House, New Delhi.

...Respondents

(By Advocate Sh. R.L. Dhawan)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

Heard both the learned counsel for the parties.

2. In this application, the applicant has impugned the penalty orders issued by the disciplinary authority and appellate authority i.e. orders dated 28-12-2001 and 17-4-2002, respectively removing him from service

3. A preliminary objection has been taken by the respondents, based on the provisions of the Section 20 (1) of the Administrative Tribunals Act 1985 that the OA is not maintainable as the applicant has not exhausted the available statutory remedies by

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way of filing review petition under the provisions of Rule 24 (3) of the Railway Servants (Discipline & Appeal) Rules, 1968. Learned counsel for respondents has also relied on the judgement of the Tribunal in Ram Avtar Gupta Vs UOI & Anr. (OA 1057/2001 decided on 16-9-2002). copy placed on record

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4. In the rejoinder filed by the applicant to this objection taken by the respondents, he has merely stated that the allegations are denied and the same is not justified as the respondents have not given any cogent grounds in support of their wild contention

5. The relevant portion of sub-Section (1) of Section 20 of the Administrative Tribunals Act, 1985 reads as follows :-

20. Applications not be admitted unless other remedies exhausted. (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances

6. Taking into account the relevant facts and circumstances of the case and the aforesaid provisions of Section 20 (1) of the Administrative Tribunals Act, and the judgement in Ram Avtar Gupta's case (supra), we as a co-ordinate Bench agree with those reasons and see no reason to differ from that order. Those reasons are also fully applicable to the facts of this case. Under Rule 24 (3) of the Railway Servants (Discipline & Appeal) Rules, 1968 the applicant has a statutory remedy, after dismissal of his appeal by the appellate authority to submit a Revision Petition against the penalty imposed upon him to the competent

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authorit The applicant has not availed of this remedy under Rule 24 (3) of the Railway Servants (Discipline and Appeal) Rules 1968

7 Sh. M.C. Dhingra learned counsel for applicant has submitted that in case the Tribunal is of the opinion that a Revision Petition should be submitted by the applicant in the first instance in terms of the aforesaid provisions, then the present OA may be treated as a Revision Petition to the competent authority. He has further prayed that a direction may be given to the respondents to dispose of the converted OA/Revision Petition in accordance with law. This prayer has been opposed by Sh. R.L. Diwan, learned counsel who has submitted that the statutory remedy available to the applicant has to be availed of by the applicant in terms of the provisions contained in Rule 24 (3) of the Railway Servants Discipline & Appeal Rules, 1968 and not otherwise.

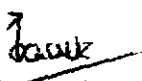
8 We have also considered the prayer of the learned counsel for the applicant to convert the present OA as a Revision Petition under the Railway Servants (Discipline and Appeal) Rules. In the circumstances of the case, we are unable to agree with this contention as it was open to the applicant to submit a Revision Petition in terms of the aforesaid Rules to the competent authority before filing the OA in the Tribunal. However, as held by the Tribunal in the order dated 16-9-2002 in Ram Avtar Gupta's case (supra), we consider it appropriate that in the peculiar circumstances of the case the applicant be given liberty to avail of the provisions for filing a

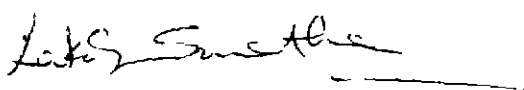
Revision Petition before the competent authority against the impugned penalty imposed upon him by the appellate authority. in accordance with statutory rules

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9 In the result for the reasons given above OA fails and is dismissed with liberty as above. In case the applicant prefers a revision petition in accordance with the relevant Rules, within four weeks time from the date of receipt of a copy of this order, respondents shall not reject the same on the ground merely of limitation as the applicant had filed the present OA. The respondents shall deal with the aforesaid revision petition in accordance with rules and pass a reasoned and speaking order within three months from the date of receipt of the revision petition.

No order as to costs.


(S.K. Nair)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/vks/