

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH, CHENNAI**

R.A. No. 2 of 2016
in
OA. No.1064 of 2014

Dated : The *Monday* the *first* of February, 2016

CORAM: HON'BLE SHRI K. ELANGO ... MEMBER (J)
HON'BLE SHRI R. RAMANUJAM.... MEMBER (A)

S. Murugesan,
S/o. Subramanian,
29, II Street, Balaji Avenue,
Thathanallur,
Tirunelveli District,
PIN- 627 358.

.....Applicant/Applicant

[by Advocate: M/s R. Malaichamy]

Vs

1. Union of India,
Rep. by the Director of Postal Services,
Southern Region (TN),
Madurai- 625 002;
2. Senior Superintendent,
RMA 'MA' Division,
Madurai 625 001 &
Ad-hoc Disciplinary Authority.

.....Respondents/Respondents

[by Advocate: Mr. S. Nagarajan]

ORDER

Per: R. Ramanujam, M(A):-

This Review Application is against our order in O.A. No. 1064/2014 dated 29.09.2015 directing the applicant to submit an appeal against the enhancement of penalty passed by the Revising authority to the authority to which Director of Postal Services, Southern Region, is immediately subordinate.

2. In the O.A., the applicant had challenged the enhancement of penalty imposed from reduction of pay to removal from service on the ground that the Revising Authority had passed orders beyond the limitation period of six months from the date of order of the disciplinary authority and this according to him fell foul with Rule 29(1)(v) of CCS(CCA) Rules, 1963 which prescribed a time limit of six months. However, it was noticed that Rule 23 read with Rule 24 of the CCS (CCA) Rules provides for an appeal to the competent authority against any order enhancing any penalty imposed under Rule 11 and the applicant had not availed of this remedy before approaching this Tribunal. Hence the O.A. was disposed of with the aforesaid direction.

3. In the Review Application, the applicant submits that Rule 23 and 24 of CCS (CCA) Rules are not relevant in the case of the applicant as the then appellate authority exercised his power under Rule 29(1)(v) of CCS (CCA) Rules, 1965 in the capacity of revisionary authority and, therefore, the time limit ought to have been observed. The Review Application is, however, silent on how Rule 23 and 24 of CCS (CCA) Rules would not be applicable to enhancement of punishment ordered under Rule 29(1)(v) of CCS (CCA) Rules 1965. Reading Rule 29(1)(v) in isolation without reference to the provisions in Rule 23 read with Rule 24 which clearly provide for an appeal to the competent authority would render these provisions nugatory and otiose. The applicant cannot be allowed to jump the gun and approach the Tribunal when the rules provide for an internal remedy.

4. It is stated in the R.A. that once the revision is exercised by the appellate authority by invoking Rule 29 (1) (v) of CCS (CCA) Rules 1965, provision for appeal against such order of revision is not available in the service jurisprudence and in the CCS (CCA) Rules, 1965. This only goes to show that the applicant has not read the order of this Tribunal carefully as it is clearly explained therein how the remedy of appeal against the order of enhancement of penalty is available to an aggrieved person in terms of Rule 23 and 24 of CCS (CCA) Rules.

5. Another ground taken is that the applicant had already submitted a petition dated 05.08.2014 to the Chief Postmaster General (CPMG), Tamil Nadu Circle, Chennai and, therefore, the question of submitting another petition against the order dated 10.4.2014 did not arise. Submission of a petition is not the same as exercise of a statutory right of appeal. However, if the Director of Postal Services, Southern Region who had passed the order impugned in the OA is immediately subordinate to the CPMG and the R.A. applicant wanted the said petition to be treated as an appeal, he was at liberty to say so and request the CPMG for its disposal accordingly in terms of the order of this Tribunal.

6. A Review Application lies only when there is glaring omission, patent mistake or grave error in the Order. When the rules are cogently interpreted and a finding recorded that the remedy available from within has not been availed of before approaching this Tribunal, it cannot be argued that it is a case of glaring omission or patent mistake or grave error in the judgment. The Review Application is misconceived and devoid of merits. It is therefore dismissed.