

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1351/1998

(20)

New Delhi this the 16th day of October, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri V.K. Majotra, Member (A)

Shri Sher Singh
S/O Sh. Chandgi Ram,
R/O Adarsh Nagar, H.No. DA-1287,
Pataudi Road, Near I.T.I. Rewari.

.. Applicant

(By Advocate Shri U. Srivastave with
Shri M.K. Gaur)

Versus

1. Union of India- through

The General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Bikaner Division,
Bikaner (Raj.)

3. The Divisional Mechanical Engineer,
Northern Railway,
Bikaner (Raj.)

4. Asstt. Mechanical Engineer,
Northern Railway,
Bikaner (Raj.)

.. Respondents

(By Advocate Shri R.L. Dhawan)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant has impugned the validity of the orders passed by the respondents, namely, the disciplinary authority's order dated 31.1.1996 and appellate authority's order dated 27.5.96 by which the penalty has been imposed on the applicant, reducing his pay from Rs. 1010/- to Rs. 800/- for a period of three months. Earlier, the disciplinary authority had passed the order reducing the pay of the applicants, for a period of two years which has been modified to ~~for~~ a period of three months.

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2. We have heard the learned counsel for the parties.

3. Shri U.Srivastava, learned counsel for the applicant has submitted that against the appellate authority's order dated 27.5.1996 the applicant had filed revision petition dated 29.1.1997 i.e. after nearly seven months, which according to him is still pending with the respondents. This has, however, been denied by the respondents who have categorically stated in their reply that the alleged revision petition has not been submitted by the applicant or received by them.

During the hearing, learned counsel for the applicant was also unable to satisfy us that the revision petition dated 29.1.1997 has been submitted to the competent authority for consideration. Apart from this, Shri R.L.Dhawan, learned counsel has submitted that the time limit for filing revision petition is 45 days from the delivery of ^{the} order sought to be reviewed, which is provided under Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968. Even according to the applicant's own averments, as he states that he has submitted the revision petition only on 29.1.1997 to respondent 2 i.e. the ^{B.} Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner (Raj.), this petition is highly belated and not maintainable under the provisions of Rule 25 of the aforesaid Rules. Learned counsel for the applicant has relied on the judgement of the Supreme Court in Deokinandan Prasad Vs. State of Bihar (1971(1)SLR Vol.5 175 and Circular issued by the ^{B.}

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respondents dated 10/15-6-1977, copies placed on record. The
the
respondents have taken a preliminary objection that/ OA is
barred by limitation under Section 21 of the Administrative
Tribunals Act, 1985. In the facts and circumstances of the case,
we do not find any merit in the submissions made by Shri
U.Srivastava, learned counsel that because ^{the 18} highly belated
revision petition is stated to be pending before the respondents
which he has filed after nearly seven months from the appellate
authority's order dated 27.5.1996, this application is
maintainable.

4. In the facts and circumstances of the case and having
regard to ~~the~~ Section 21 of the Administrative Tribunals
Act, 1985, we are unable to agree with the averments made by
the applicant in Paragraph 3 of the OA that the OA has been
filed within the period of limitation. Therefore, the OA is
liable to be dismissed as barred by limitation.

5. We have also considered the case on merits. The
aforesaid impugned penalty orders have been passed by the
disciplinary authority as well as ~~by~~ the appellate authority
after holding the disciplinary proceedings against the applicant.
In the revision petition dated 29.1.1997 stated to be filed by
the applicant before the respondents, he has stated that he has
been absent during the relevant period but since he has been
doing his work honestly and properly, the punishment awarded
to him may be set aside, and his period of absence should be
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deemed to be a period spent on duty. Learned counsel had relied on certain statements made by his colleague during the enquiry for this purpose. However, taking into account the pleadings in this case as well as the settled law on the subject of judicial review on orders passed by/competent authorities in such matters, after holding disciplinary enquiry, we do not find any good grounds to interfere in the matter. The judgement of the Hon'ble Supreme Court in Deckinandan Prasad's case (Supra) relied upon by the applicant will not assist the applicant in the facts of the present case.

6. In the result, for the reasons given above, the OA fails both on limitation and merits and is dismissed.

No costs.

V.K.Majotra
(V.K.Majotra)

Member (A)

Lakshmi Srinivasan
(Smt.Lakshmi Swaminathan)

Member (J)

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