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In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1038/89

Date of decision: 11.02.1993.

Shri Inder Singh

...Petitioner

Versus

Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi
and Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. J.P. Sharma, Member (A)

For the petitioner Shri Umesh Mishra, Counsel.

For the respondents Shri P.S. Mahendru, Counsel.

Judgement (Oral)
(Hon'ble Mr. I.K. Rasgotra, Member (A))

The petitioner Shri Inder Singh was working as Fireman Grade-B on the Northern Railway when he was removed from service under Rule 14 (2) of the Railway Servants (Discipline & Appeal) Rules, 1968 sometime in February, 1981. He filed writ petition along with some others, including one Shri Kula Nand in the Delhi High Court, which came to be transferred to the Central Administrative Tribunal on its constitution w.e.f. 1.11.1985 and was registered at the Principal Bench of the Tribunal as T-745/85. The said petition T-745/85 - Shri Kula Nand & Others v. Union of India & Others reported in ATR 1986 (2) 612 was decided by the Tribunal vide its judgement rendered on 9.10.1986. The operative part of the said judgement is reproduced below:-

"15. In the result, following the ratio of the Hon'ble Supreme Court in Satyavir's case and Sawant's (supra) and in the facts and circumstances

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discussed above, we dismiss the petition, subject however to direction that the petitioners whose appeals have already been rejected may, if so advised, file a revision application under Rule 24 (2)/25 of the Railway Servants (Discipline & Appeal) Rules, 1968 to the General Manager, Northern Railway. The revision petition should be filed within two months of this order and we direct that the revision authority shall condone the delay in filing the revision application, and hear and dispose of the petitions expeditiously on merits according to law. The interim order passed in this case stands vacated. There will be no order as to costs."

In accordance with the above directions the petitioner claims that he filed a representation to the reviewing/revision authority on 24.10.1986. The respondents asked for a copy of the said representation on 27.2.1988. He supplied a copy of his representation dated 24.10.1986 to the respondents on 10.3.1988. Despite no action was taken by the reviewing/revision authority to dispose of the representation nor was an enquiry initiated against him. The learned counsel for the petitioner Shri Umesh Mishra brought to our notice the case of Shri Kula Nand vs. Union of India decided on 15.11.1991 reported in 1992 (1) CSJ CAT 11 (PB). The facts of Kula Nand's (supra) case are on all fours with those in this petition and, therefore, the learned counsel for the petitioner submitted that the petitioner is entitled to receive similar

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benefits as granted to Shri Kula Nand in Kula Nand's (supra) case. The operative part of the judgement in Kula Nand (supra) reads as under:-

"In view of the above, we quash the order of the disciplinary authority (dated 2.3.1981 by which the applicant was removed from service) and the appellate authority and remit the matter to the respondents for holding an enquiry if possible in accordance with law. The enquiry has to be completed within a period of six months from the date of receipt of this order."

The principal ground taken by the respondents in their reply to repel the contention of the petitioner is that the petitioner failed to file any representation before the Reviewing/Revision Authority and, therefore, the petition is barred by limitation in accordance with the provisions of Section 21 of the Administrative Tribunals Act, 1985. It is more so when the Tribunal had fixed the time limit of two months for filing such review petitions. The stand of the respondents/^{was} contested by the learned counsel for the petitioner who produced the copy of the representation dated 24.10.1986 which he had filed for the consideration of the review/revision authority addressed to the General Manager, Northern Railway through his immediate superior, Loco Foreman, Loco Shed, Tughlakabad, Northern Railway. The learned counsel also submitted that the petitioner had also submitted a copy of the

representation directly under registered post. In support he produced both the registration as well as the acknowledgement due receipts for the perusal of the Court. The learned counsel for the respondents Shri P.S. Mahendru who also inspected these documents fairly conceded that these representations must have been filed but apparently have been misplaced in the receiving office.

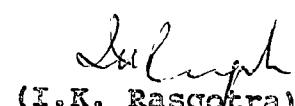
In view of the above circumstances, we are of the opinion that the petitioner is entitled to the reliefs which have been granted to Kula Nand (who was his co-petitioner in T-745/85) in our judgement in OA-526/88 decided on 15.11.1991. The matter, therefore, stands concluded in the wake of the Kula Nand's (supra) judgement. Accordingly the order of the disciplinary authority dated February 2, 1981 removing the petitioner from service with immediate effect and the order of the appellate authority dated 14.5.1981, upholding the penalty of removal from service are quashed. The respondents are further directed to hold enquiry in the case, if possible, in accordance with law with utmost expedition but preferably within six months from the date of communication of this order. We, however, do not pass any order regarding back wages. The parties shall bear their own costs.



(J.P. Sharma)

Member (J)

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(I.K. Rasgotra)

Member (A)