

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH
NEW DELHI.

O.A.282/88.

Krishan Lal ... Applicant.
-versus-
Union of India and others... Respondents

P R E S E N T :

The Hon'ble Shri B.C.Mathur, Vice Chairman(A).

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman(J).

For the applicant- Shri R.L.Sethi, Advocate.

For the respondents- None appears

Date of Order - 15.5.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman(J) :-

The applicant while working under the respondents was proceeded against by the issue of a Memorandum of Charges in the year 1977, but no penalty was imposed pursuant to the same. On 6.10.1983, the applicant was called upon to submit copy of the Memorandum of Charges and the copies of the enquiry proceedings to finalise the case on the ground that the file had been misplaced. Thereafter, by the order dated 10.11.1983, the Memorandum of Charges was cancelled and a fresh charge-sheet was issued. The applicant protested against the same. However, an exparte enquiry was conducted based on which the penalty of removal from service was imposed upon the applicant. The applicant preferred appeal which was rejected. It is alleged that the review petition filed by the applicant has not been disposed of.

2. The applicant prays for quashing the order of penalty dated 28.8.1984 and for all consequential benefits.


3. The applicant has filed M.P.586/88 for condoning the delay in filing the application. The ground urged is that the review petition has not been disposed of.

2

4. In the reply filed by the respondents, it is contended that the application is barred by limitation. The prayer for condonation of delay is also resisted by the respondents.

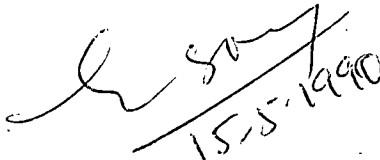
5. The respondents have admitted that on 5.2.1987, the applicant has filed a petition for review of the order imposing the penalty, and that no reply was given to the same as it is time-barred. The applicant has produced the copy of the review petition which is at Annexure-10. It is seen that various grounds have been urged by the applicant in support of the petition.

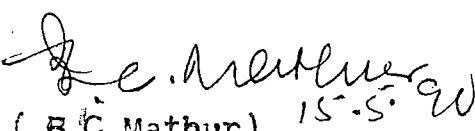
6. From the facts it is clear that though the Memorandum of Charges was issued in the year 1977, the respondents did not think it necessary to complete the proceedings. Even according to the reply, it is only in view of a so-called direction given by the Court of the Sub-Judge in Civil Suit No. 625/81, decided on 13.6.1983, that the second Memorandum of Charges was issued. It is manifest from the statements contained in paragraphs 6.5 and 6.6 of the reply filed by the respondents that they have wrongly assumed that the Civil Court had directed that action should be proceeded with against the applicant. Actually, there is no such direction in the judgment (Vide Annexure-R/1). The suit itself was only for the full wages and the service benefits that the applicant claimed during the period of suspension from 6.10.1977 to 5.10.1978.



7. In the circumstances, we are of the view that the interest of justice will be met by the issue of a direction to the General Manager, Northern Railways, for consideration of the review petition submitted by the applicant and to dispose of the same in accordance with law, having regard to the facts stated above.

8. In the result, M.P.586/88 is allowed and the OA 282/88 is disposed of as above.


15.5.1990
(G.Sreedharan Nair)
Vice Chairman(J).


15.5.90
(E.C.Mathur)
Vice Chairman(A).

S.P.Singh/
14.5.90.