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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.No. 80/91

Date of Decision: 10-4-92

Ram Bilas

.. Applicant(s)

Mr. Umesh Misra

.. Counsel for the applicants

Vs

Chairman, Railway Board
and others

.. Respondents

Shri B.K. Agarwal

.. Counsel for respondent(s)

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Hon'ble Mr. S.P. Mukerji - Vice Chairman

Hon'ble Mr. T.S. Oberoi - Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporter or not? *No*

J U D G M E N T

(Delivered by Hon'ble Mr. S.P. Mukerji, Vice Chairman)

In this application dated 31.12.90 the applicant who had been working as a Train Lighting Fitter in the North-Eastern Railway has prayed that the respondents be directed to hold full ^{pledged} ~~enquiry~~ enquiry to justify the punishment of removal and he be allowed to resume duty with full wages.

2. The brief facts of the case are as follows. While the applicant was working as a Train Lighting Fitter Bareilly Junction he was charge-sheeted and dispensing with the enquiry under Rule 14(2) of the Railway Servants (Discipline and Appeal) Rules 1968 removed from service on 13.9.82 holding that it was not practical to hold an enquiry against the applicant. His appeal was rejected on 12.9.82 and he moved a writ petition before the Supreme Court on 18.3.83. The Writ Petition was dismissed on 11.7.85 and the applicant was directed to prefer

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a departmental appeal before 30.9.85. The applicant filed an appeal on 30.9.85 and when no action was taken he moved the Tribunal which directed on 3.3.87 that the appeal be decided within four months. On 6.4.87 the representation of the applicant was rejected. Thereafter the applicant moved the Tribunal again challenging the orders of 13.9.82, 12.11.82 and 6.4.87. The Tribunal dismissed the application. The applicant filed an SLP before the Supreme Court which was disposed of on 8.9.88 in SLP No.8843/88 with the following order:

"If he so advised, it is open to the Petitioner to file an application under Rule 25-A of the Railway Servants (Discipline and Appeal) Rules, 1968 before the appropriate authority and if such application is filed the authority shall dispose it of in accordance with law. The Special Leave Petition is dismissed with these observations."

Pursuant to the directions of the Hon'ble Supreme Court the applicant preferred a revision application as at Annexure.A on 28.8.89/26.10.89 which has remained unresponded. Hence, this original application before us. He has argued that there is no limitation prescribed under Rule 25-A of the Railway Servants (Discipline and Appeal) Rules. In any case where breach of fundamental right is involved there can be no limitation. His removal from service without holding an enquiry according to the applicant is a breach of his fundamental right available to him under Article 311 of the Constitution.

3. In the counter affidavit the respondents have stated that under Rule 25-A of the Railway Servants (Discipline and Appeal) Rules the revision petition should have been addressed to the General

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Manager and not to the Chairman as has been done. Accordingly the applicant cannot be stated to have filed any revision petition. They have also stated that the petition is time barred as the petition was filed one year after the direction of the Hon'ble Supreme Court.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. There is no time limit in filing an application under Rule 25-A of the Railway Servants (Discipline and Appeal) Rules. The operative portion of Rule 25-A reads as follows:

"25-A. The president may at any time either on his own motion or otherwise review any order passed under these rules when any new material on evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case has come or has been brought to his notice." (emphasis added) R

The respondents are not correct in stating that the application should have been addressed to the General Manager. The application should be addressed to the President while the applicant has addressed the application to the Chairman, Railway Board. In any case in the interest of justice such technicalities should not matter. The spirit in which the Hon'ble Supreme Court had ^{on 8.9.88} given the direction shows that the applicant ^R should have a fair chance once again under Rule 25-A of the aforesaid rules on merits.

R 5. In the conspectus of facts and circumstances

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we allow the application and direct the respondents to treat the application dated 28.8.89/26.10.89 at Annexure-A to be an application filed under Rule 25-A of the Railway Servants (Discipline and Appeal) Rules and get the application disposed of on merits by a speaking order within a period of two months from the date of communication of this judgment. There will be no order as to costs.

T.S. Oberoi 10.4.92
(T.S. OBEROI)
MEMBER (JUDICIAL)

S.P. Mukerji 10.4.92
(S.P. MUKERJI)
VICE CHAIRMAN

10-4-92

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