

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.197/2004

New Delhi this the 11th day of March, 2005

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri S.K. Malhotra, Member (A)

Om Prakash Verma
S/o Shri Ram Prasad Soni
Ex-E.D. Branch Postmaster
Postoffice- Bakla Via Raya
Distt-Mathura.

-Applicant

(By Advocate: Shri D.P. Sharma)

Versus

1. Union of India
through Secretary
Ministry of Communication
Department of Posts
Dak Bhawan Sansad Marg,
New Delhi.
2. The Postmaster General
Agra Region- Agra.
3. The Sr. Superintendent Postoffices
Mathura Division-Mathura.
4. The Director Postal Service
O/o the P.M.G. Agra Region-Agra.

-Respondents

(By Advocate: Shri N.S. Mehta)

ORDER (Oral)

Hon'ble Shri Shanker Raju, Member (J):

Heard the counsel.

2. Applicant impugns removal order dated 11.8.94, appellate order dated 20.1.95 as well as order passed in revision on 15.9.2003 on the ground that whereas the enquiry officer has partly proved the charges, disciplinary authority has fully proved the charges and then imposed the punishment without following the Rules. As far as limitation is concerned,

it is stated that as per Rule-16 of the Postal ED Staff, Rules, there is no limitation prescribed for entertainment of revision petition and Director General of Postal Service has jurisdiction to entertain the revision petition without any time limit. Learned counsel stated that in his revision petition applicant clearly states that in pursuance of his acquittal on 2.12.2002 against the conviction order, the revision petition has been preferred. On merit, it is stated that to segregate the charge and carve out disciplinary proceeding, by the authorities, would not be in the interest of the Government servant.

3. In so far as admission of the charge is concerned, it is stated that once a full fledged enquiry has been conducted, admission has no significance. As there is an inherent lacuna of non-accord of reasonable opportunity, on relying upon the decision of the Apex Court in **SBI and others Vs. A.K. Shukla** JT 2001 (4) SC 415 to substantiate the aforesaid plea, it is contended that punishment is a nullity.

4. On the other hand, learned counsel for respondents vehemently opposed the contention and stated that OA is hopelessly barred by limitation and order passed in revision would not extend the period of limitation. It is further stated that it is no more res integra in the light of Rule-16 *ibid*, as the revisional authority has discretion while considering the revision on merit on the ground of its being highly belated Revision Petition suffers from delay and latches. Learned counsel further stated that the finding arrived at is in accordance with law.

5. On careful consideration of the rival contentions of the parties and keeping in light Section-21 of the Administrative Tribunals Act, 1985 (AT Act, for short) cause of action to a person arises on exhausting remedy against punishment and on availability of the final order. Applicant

preferred an appeal and the same was rejected on 20.1.95. Accordingly, OA could not have been filed before this Court within one year from that date. The present OA has been filed on 22.1.2004, which is beyond limitation.

6. As regards Rule-16 of the Rules, *ibid*, no doubt it provides that the Central Government or Postmaster General may, at any time, on its own motion or otherwise, call for records of any enquiry or disciplinary case and revise an order made under these rules but it is also provided that no case shall be reopened after a period of six months except with the approval of the Central Government or by the Postmaster General. In this view of the matter, it is construed that as no limitation applies to revision, it is mandated upon the Direction General to entertain a revision which has been filed even beyond the prescribed limit of six months from the appellate order, i.e., in the present case after 20.1.95.


7. We do not advert to the interpretation accorded to this rule by the applicant. No doubt there is no time limit but yet the Director General and Central Government while exercising *suo moto* power of revision are within jurisdiction to consider the circumstances in which the petition has been delayed.


8. If a provision does not lay down limitation for making an application, it cannot be construed that there is no time limit and as such the matter can be reopened even after several years. Rule of fair play and reasonableness would ensure that the revision petition is filed within a reasonable period and in case it is not, there may be justifiable reasons to justify such a delay.

9. Order passed by Addl. District and Sessions Judge, Mathura on 2.12.2002 is the only justification to prefer the revision petition beyond

limitation. In fact, the charges levelled against the applicant in which punishment of removal was imposed upon the applicant are not even remotely related to an offence alleged against the applicant in a criminal case. The order passed by the revisional Authority is within his jurisdiction and is in consonance with Rule-16 of the Rules *ibid*, otherwise there would be no end to the litigation and the matter would never be closed.

10. In the result, for the foregoing reasons, as the order passed in revision would not extend the limitation, having filed the OA, assailing order passed in revision, without any M.A. for condonation of delay, is clearly hit by delay and latches and the same is dismissed. No costs.


(S.K. Malhotra)
Member (A)


(Shanker Raju)
Member (J)

cc.