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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * *

Date of Decision: 12.11.92

OA 1326/92

B.N. GUPTA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON. MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN (J).
THE HON. MR. I.P. GUPTA, MEMBER (A).

For the Applicant

... SHRI B.S. MAINEE.

For the Respondents

... SHRI SHAUKAT MATTU.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT (ORAL)

Both the learned counsels were heard finally. In this application, the applicant has assailed Annexure A-1 and A-2 i.e. an order dated 4.5.92 regarding the issue of a direction for a fresh inquiry by the Reviewing Authority, namely AGM, under Rule 25, and order dated 6.5.92, ordering appointment of a new Enquiry Officer to inquire into charges framed against the applicant. The applicant was awarded the penalty of reduction to a lower stage by the Disciplinary Authority. This penalty was reduced to censure by the

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Appellate Authority. The Reviewing Authority, according to the learned counsel for the respondents, felt that there were serious lapses in the inquiry because new witnesses could not be examined and new evidence could not be produced to fill in the gap.

The learned counsel for the applicant, however, contended that the Annexure A-1 and A-2 suffered from legal defects inasmuch as a review cannot be done after the expiry of six months according to the provisions of Rule 25(v) of the Railway Servants (Discipline & Appeal) Rules, 1968, and further, the Reviewing/Revisionary Authority could remit the case for further inquiry but not for a de-novo inquiry.

We have perused Rule 25(v) of the Railway Servants (Discipline & Appeal) Rules, 1968. A proviso of Rule 25 (v) reads as follows:-

"Provided further that no action under this rule; shall be initiated by (a) an appellate authority other than the President or (b) the revising authorities mentioned in item (v) of sub-rule (1) —

- (i) more than six months after the date of the order to be revised in cases where it is proposed to impose or enhance a penalty or modify the order to the detriment of the Railway servant; or
- (ii) more than one year after the date of the order to be revised in cases where it is proposed to reduce or cancel the penalty imposed or modify the order in favour of the Railway servant.

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2. When revision is undertaken by the Railway Board or the General Manager of a Zonal Railway or an authority of the status of a General Manager in any other Railway Unit or

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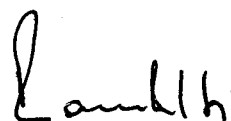
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Administration, when they are higher than the appellate authority, and by the President, even when he is the appellate authority, this can be done without restriction of any time limit?

It is clear from the above that revision could be undertaken by the Railway Board or the General Manager or an authority of the status of General Manager or by the President at any time without any restriction of time limit. In this case, however, the Revisionary Authority was AGM and he passed the order for review after expiry of the six months. Therefore, Annexure A-1 and A-2 are not in accordance with the provisions of Rule 25(v) of the Railway Servants (Discipline & Appeal) Rules, 1968. We are not going into other issues. Since the Annexure A-1 and A-2 are ultra virus of the Rule 25(v), both the orders are quashed on the ground of legal and technical flaw and we have not gone into charges or their merits, which we considered as unnecessary.

The OA thus finally disposed of with no order as to costs.


(I.P. GUPTA)
MEMBER (A)
12.11.92.


(RAM PAL SINGH)
VICE CHAIRMAN (J)
12.11.92