

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(11)

O.A. NO. 1609/92

DECIDED ON : 30.08.1993

Kanhai Lal & Ors.

...

Petitioners

Vs.

Union of India & Anr.

...

Respondents

CORAM :

THE HON'BLE MR. JUSTICE S. K. DHAON, V.C.(J)

THE HON'BLE MR. B. N. DHOUDIYAL, MEMBER (A)

Shri Umesh Misra, Counsel for Petitioners

Shri Romesh Gautam, Counsel for Respondents

J U D G M E N T (ORAL)

Hon'ble Mr. Justice S. K. Dhaon :-

By similar but separate orders, the punishing authority in the purported exercise of powers under Rule 14(2) of the Railway Servants (Discipline & Appeal) Rules, 1968 (hereinafter referred to as 'the Rules'), removed the petitioners and others from service. The separate appeals preferred by the petitioners were dismissed on 14.4.1987. On 1.8.1990, the separate revisions preferred by the petitioners were dismissed on merits. The revision orders are being impugned in the present application.

2. It appears that some other employees of the Railways, who had been similarly removed as the petitioners, came to this Tribunal and succeeded. The matter was taken to the Supreme Court by the Union of India & Others by means of SLPs. On 5.8.1993, the Supreme Court disposed of the appeal of the Union of India & Others in terms of certain directions. The learned counsel for the petitioners states

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that the petitioners will be satisfied if we dispose of this application in terms similar to those directed by the Supreme Court. The learned counsel for the respondents fairly and rightly stated at the Bar that if the petitioners are to be given relief on merits, orders have to be passed in conformity with the orders passed by the Supreme Court as that Court passed general directions.

3. Learned counsel for the respondents contended that the petitioners in this case are not entitled to any relief as they came earlier to this Tribunal. We find that the petitioners came to this Tribunal with the grievance that their appeals were not being disposed of by the appellate authority. This Tribunal directed the appellate authority to dispose of the appeals expeditiously and in the light of the directions given by the Supreme Court. The appellate authority, according to the petitioners, did not act in conformity with the directions of the Supreme Court and, therefore, they preferred a contempt petition before this Tribunal. That petition was rejected as barred by limitation.

4. We are satisfied that neither the order passed by the Tribunal directing the appellate authority to dispose of the appeal expeditiously nor the order of this Tribunal dismissing the contempt petition as barred by limitation, will operate as res judicata or will operate as a legal bar to entertain^{ing} this application, which is directed against the revisional order passed on 1.8.1990.

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5. The other submission made by the counsel for the respondents is that the petitioners cannot get any relief as they have failed to make any prayer for the quashing of either the original orders or the appellate orders. The orders passed by the original authority and the appellate authority merged in the revisional orders. It is now a settled law that the theory of merger applies to revisional orders and even in a case where an order of affirmance is passed. Moreover, the petitioners have not made the usual prayer that this Tribunal may grant any other appropriate relief, it is in our jurisdiction to grant the necessary relief. We have already stated that the petitioners are interested in getting the directions as issued by the Supreme Court.

6. We direct the respondents to act strictly in accordance with the directions of the Supreme Court in Civil Appeals No. 4681-82/92.

7. With these directions, this application is finally disposed of. No orders as to costs.

B. N. Dhoundiyal
(B. N. Dhoundiyal)
Member (A)

S. K. Dhaon
(S. K. Dhaon)
Vice Chairman (J)

as