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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 29th day of November 2000.

Original Applicant no. 960 of 1997.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. S. Dayal, A.M.-----

Allauddin, S/o Musakhan,
Diesel Asstt. I, N.E. Rly.,
R/o Rly Qrs D/1, Bareilly City,
Bareilly.

... Applicant

C/A Shri K.S. Saxena

Versus

1. The Union of India (Through General Manager,
N.E. Rly., Gorakhpur).
2. The Divisional Mechanical Engineer (Power),
N.E. Rly., Izatnagar, Bareilly
3. The Divisional Rly., Manager, N.E. Rly.,
Izatnagar, Bareilly.

... Respondents

C/Rs Shri A. Sthalekar

O R D E R(Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

The facts in short giving rise in this OA
are that the applicant was serving as Foreman Grade I.

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On 29.1.95 he was served the memo of charge of misconduct for derailment of the Engine no. 6602 with other compartments of passenger train. The applicant submitted his reply. The inquiry officer found the charge proved and submitted his report. The punishing authority by order dated 28.11.95 reverted the applicant from Fireman Grade I to Fireman Grade II. The order of the punishing authority was challenged in appeal. The appellate authority partly allowed the appeal and ^{restricted} ~~restructure~~ the period of ^{reversion} ~~rejection~~ for three years. Against the order of punishing authority and appellate authority, the applicant filed a review application under section 25-A of Railway Servant (D & A) Rules 1968 (here in after referred to rule). This review application, however, was rejected by D.R.M. (power), Izatnagar (respondent no. 2) by order dated 07.07.97, stating that the review is beyond ~~the~~ time and it cannot be considered.

2. Learned counsel for the applicant has challenged the legality of this order rejecting his review application on the ground of limitation and has submitted that under Rule 25-A of the Rule, no limitation has been provided. It has also been submitted that ⁱⁿ review application, the applicant had given reasons for not making the application earlier. The review application could be considered by the President as provided in the rules or by the authority to whom power has been delegated. In the present case respondent no. 2 was the punishing authority. Therefore, he could not reject the application.

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The order is without authority and liable to be set aside.

3. Learned counsel for the respondents on the other hand submitted that the applicant could not file review application without availing the remedy provided under rule 25 ~~of~~ ^{of} the rule by filing revision before the competent authority. However, he could not satisfy us as to ^{how} ~~why~~ the review application of the applicant could be rejected by respondent no.2. The order appears to be wholly without authority and is liable to be set aside.

4. For the reasons stated above the order dated 7.7.97 (annexure A1) is hereby quashed. The review application of the applicant shall be restored to its original number and shall be placed before the competent authority to decide the same in accordance with law.

5. No order as to costs.


Member


Vice-Chairman

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