

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH AT BANGALORE**

REVIEW APPLICATION NO.170/00098/2019

IN O.A NO.170/01532/2018

DATED THIS THE 10TH DAY OF JANUARY, 2020

**HON'BLE DR K. B SURESH....MEMBER (J)
HON'BLE SHRI.C V SANKARMEMBER (A)**

T.Yapaiah,
S/o Gantu Thimmaiah,
Aged 50 years,
Ex-Postman,
Davangere HO-577 001,

Residing at Gowdagere Village & Post,
Challakere Taluk,
Chitradurga-577 536.

...Review Applicant

(By Advocate Shri.A R Holla)

Vs.

1. Union of India
By Secretary,
Department of Post,
Dak Bhavan,
New Delhi-110 001.

2. Director of Postal Services (HQ)
Karnataka Circle,
Bengaluru-560 001.

3. The Superintendent of Post Offices,
Chitradurga Division,
Chitradurga-577 501.

...Review Respondents

(By Advocate Shri.S Sugumaran, ACGSC)

ORDER (ORAL)**HON'BLE DR K.B.SURESH, MEMBER (J)**

We heard both the counsel. The cardinal ground that is raised is that there is violation of Rule 29 (v) in relation to 29 (i to iv) which indicates that the revision authority shall exercise his power within a period of six months. There is some dispute on the wordings used and there is also some ambiguity here. Therefore, this portion we may quote for further elucidation:

Ministry of communication [Department of Posts]

New Delhi, the 29th May, 2001

"NOTIFICATION

No. So.... In exercise of powers conferred by Clause (VI) of Sub Rule (1) of Rule 29 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, the President hereby specifies that in the case of a government servant serving in the Department of Posts, for whom the appellate authority is subordinate to the authority designated as the Principal Chief Postmaster General or the Chief Postmaster General (other than the Chief Postmaster General of Senior Administrative Grade) of a Circle, the said Principal Chief Postmaster General or the said Chief Postmaster General, as the case may be, shall be the revising authority for the purpose of exercising the powers under the said Rule 29. [No.C-11011/1/2001-VP]

Sd/-

[B.P.Sharma]

Director (VP)

The relevant clauses of Rule 29 are as under:-

(1) Notwithstanding anything contained in these Rules.

- (i) the President; or*
- (ii) The Comptroller and Auditor-General, in the case of a Government servant serving in the India Audit and Accounts Department; or*
- (iii) the Member (Personnel) Postal Services Board in the case of a Government Servant serving in or under the Postal Services Board and (Adviser (Human Resources Development), Department of Telecommunication) in the case of Government Servant serving in or under the Telecommunication Board); or*
- (iv) the Head of a Department directly under the Central Government in the case of a Government Servant serving in a department or office*

(not being the Secretariat or the Posts and Telegraphs Board) under the control of such head of a Department; or

- (v) the appellant authority, within six months of the date of order proposed to be (revised); or*
- (vi) any other authority specified in this behalf by the President by a general or special order, and within such time as may be specified in such general or special order; may at any time either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these rules....*

(2) No proceeding for revision shall be commenced until after

- (i) the expiry of the period of limitation for an appeal, or*
- (ii) the disposal of the appeal, where any such appeal has been preferred.”*

10. As rightly observed by the Tribunal, the above sub-Rule (1) of Rule 29 indicates 6 categories of revisional authorities. If we go further it shows that while no period is mentioned in sub-clauses (i) to (iv), sub-Clause (v) refers to a period of six months from the date of order proposed to be revised. Since order was passed by exercising power under sub-Clause (vi), we have to see whether in the Notification specifying an authority a time limit has been mentioned or even in the absence of the same, the outer limit can be availed by exercising power under sub-Clause (v). According to learned ASG, there is no need to specify the period in the Notification authorizing concerned authority to call for the record for any enquiry and revise any order made under the Rules. We are unable to accept the said claim for the following reasons.

11. It is to be noted that in cases where the appellate authority seeks to review the order of the disciplinary authority, the period fixed for the purpose is six months of the date of the order proposed to be revised. This is clear from sub-clause (v) of sub-Rule 1 of Rule 29. On the other hand, Clause (vi) confers similar powers on such other authorities which may be specified in that behalf by the President by a general or special order and the said authority has to commence the proceedings within the time prescribed therein. Even though Rule 29(1)(vi) provides that such order shall also specify the time within which the power should be exercised, the fact remains that no time limit has been prescribed in the Notification.

12. We have already pointed out that no period has been mentioned in the Notification. The argument that even in the absence of specific period in the Notification in view of Clause (v), the other authority can also exercise such power cannot be accepted. To put it clear, sub-Clause (v) applies to appellate authority and Clause (vi) to any other authority specified by the President by a general or special order for exercising power by the said authority under sub-Clause (vi). There must be specified period and the power can be exercised only within the period so prescribed.

13. Inasmuch as the Notification dated 29.05.2001 has not specified any time limit within which power under Rule 29(1)(vi) is exercisable by the authority specified, we are of the view that such Notification is not in terms with Rule 29 and the Tribunal is fully justified in quashing the same. The High Court has also rightly confirmed the said conclusion by dismissing the Special Application of the appellants and quashing the Notification on the ground that it did not specify the time limit. Consequently, the appeal fails and the same is dismissed. No order as to costs.

Appeals dismissed.

2. Therefore, with anxious eyes we looked into the matter and found that the present order was passed on 4.9.2017. A suomotu revision was initiated on 1.1.2018 thereafter appropriate opportunity was given to the review applicant herein to state his contention. It is clearly within the ambit of six months. Therefore, what is cardinal is, in the circumstances of this case that the order might have been passed a few days after the period of six months. But it was heard, taken up and notice was issued on consideration within that period indicating that the concerned authority had thought it feasible and possible to have a relook into the matter and thereafter appropriate opportunity was given to the concerned person. Thereafter as stated by the Hon'ble Apex Court in many a case, no prejudice at all had been caused to the applicant. This super-technical objection now taken at this stage may not be worthwhile. Therefore, held to be no ground in the RA. Dismissed. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR K.B.SURESH)
MEMBER (J)

/rsh/

Annexures referred to by the Applicant in RA No.170/00098/2019

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| Annexure RA1 | Copy of the order dated 08.11.2019 in OA No.1739/2018 of CAT, Bangalore Bench. |
| Annexure RA2 | Copy of the order of the Supreme Court in case of Union of India and others Vs. Vikrambhai Maganbhai Choudhari [2011 (7) SCC 321]. |