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Reserved.

Central Administrative Tribunal, Allahabad.

Misc. Application No. 13 of 1986 in
Registration O.A.No. 449 of 1986.

R.K.Goswami Applicant

Vs.

Divisional Railway Manager
and others Respondents.

Hon. Ajay Jhri, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

This review petition is directed against the order dated 24.9.1986 passed by this Bench summarily rejecting Registration O.A.No.449 of 1986 filed by the applicant under Section 19 of the Administrative Tribunals Act on the ground that it was not a fit case for adjudication. It is alleged by the applicant that he has already been punished once for the alleged lapse on his part and a punishment cannot be two-tier or three-tier. Our attention was drawn to order dated 11.7.1986 passed by the D.C.S.Jhansi withholding the increments of the applicant for 3 years under Rule 6 of the Railway Servants (Discipline and Appeal) Rules, 1968. It was also contended that the respondents may be allowed to initiate fresh departmental proceedings against the applicant in case they had dropped such proceedings against him earlier on his undertaking dated 26.5.1986 to pay Rs.5,000/- in respect of the alleged loss to the department.

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2. We have carefully considered the contentions of the applicant. The order dated 11.7.1986 withholding one increment of the applicant for 3 years was passed in respect of a separate charge sheet no. CX/9/620 dated 16.4.1986, while the proceedings dropped by the respondents on 26.5.1986 on the aforesaid undertaking dated 26.5.1986 of the applicant were in respect of the memorandum of the charge sheet issued with letter no. CS/9/820 dated 12.7.1984. The applicant was, thus, punished for different lapse or misconduct and the proceedings dropped were in respect of a different charge against him for causing shortage of cash. We are further of the view that the undertaking given by the applicant on 26.5.1986 vide enclosure 2 to his petition to pay Rs.5000/- was already accepted and acted upon by the respondents the same date by passing the order, annexure 3, and as such, it is now not ^{open to} ~~the right of~~ the applicant to withdraw that undertaking and invite a fresh disciplinary proceeding against him.

3. We have carefully considered the matter and we are of the view that there is no point for review in this case and the application for review is accordingly rejected.

30.12.1986
Member (A)

Dated 30.12.1986
kkb

30.12.1986
Member (J)

(A2/1) (8)

Central Administrative Tribunal, Allahabad.

Registration No.449 of 1986.

R.K.Goswami

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Applicant.

Vs.

Divisional Railway
Manager (P), Jhansi
and 2 others

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Respondents.

Hon. Ajay Johri, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

In this application under section 19 of the Administrative Tribunals Act, the applicant, a Central Railway employee, wants to get the order dated 7.8.1986 set aside. By this order, the Railway administration has directed to recover Rs.5,000/- from the pay of the applicant in the monthly instalments of Rs.300/- each. It appears from the allegations made in the application and Annexures 2, 3, 5 and 10 that there was misappropriation of a sum of Rs.10,000/- belonging to the Railway Department and in that connection, the applicant and one Sri Pathravey Shroff were served with S.F.5. The said shroff volunteered to pay Rs.5,000/- and the applicant also volunteered to pay the remaining Rs.5,000/- on the condition that the case as instituted against them be withdrawn immediately. The case was withdrawn ^{the 2} same day as appears from Annexure 3. It is the recovery of the said amount of Rs.5,000/- against which this application has been filed. The applicant vide his letter dated 2.6.1986, copy annexure 5, withdrew his earlier letter under which he had undertaken to pay Rs.5,000/-. In our opinion, after having the case, filed against them by the Department, withdrawn on his undertaking that he will pay Rs.5,000/- on account of the loss occasioned to the Railway administration, the applicant cannot be allowed to stall the recovery of the said amount.

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2. In our opinion, it is not a fit case for adjudication and we accordingly reject it summarily.

[Signature]
Member (A)

[Signature]
24/9/86
Member (J)

Dated 24.9.1986
kkb