

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 785 of 2006

Thursday, this the 19th day of February, 2009

**Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mr. S.N. Shukla, Member (A)**

Musafir Singh Yadav aged about 60 years S/o Late Shri Ram Pati Yadav, Retired Office Superintendent Grade II in the Office of the DRM (P), N.E. Railway, Varanasi.

Applicant

By Advocate: Sri Sudama Ram

Vs.

1. Union of India through the General Manager, North Eastern Rly., Headquarter Office, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.
3. Additional Divisional Railway Manager, N.E. Railway, DRM's Office, Varanasi.
4. Sr. Divisional Finance Manager, N.E. Railway, DRM's Office, Varanasi.
5. Chief Vigilance Officer, North Eastern Rly., Headquarter Office, Gorakhpur.

Respondents

By Advocate: Sri Prashant Mathur.

ORDER

By Ashok S. Karamadi, Member (J)

This application is filed seeking quashing of the Order passed by the respondents, produced as annexure A-1/A, by which the respondents have appointed an Inquiry Officer to hold an inquiry against the applicant.

2. The case of the applicant is that while he was in service, the respondents' authority by Order dated 13.06.2006, produced as annexure A-5, passed the Order of compulsory retirement against the applicant. Subsequently the same authority has passed the Order of reinstatement on 28.06.2006, by reviewing the earlier

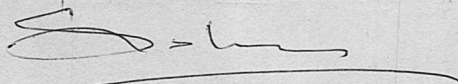
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order, which is produced as annexure A-1/B. The contention of learned counsel for the applicant with regard to impugned order is that the authority who passed the Order (annexure A-5) is the same authority, therefore, subsequent order passed by the same authority by reviewing the earlier order, cannot be sustained in law.

3. Learned counsel for the respondents argued that with regard to Rule position is concerned, there is error crept in the Order passed by the respondent concerned as he has no authority to review his earlier order being the same authority, even though the respondents have filed the detailed counter affidavit with regard to the facts in issue between the parties.

4. Having regard to the points in issue between the parties that the Order dated 13.06.2006 passed by the respondents and subsequently the same was reviewed by the same authority by the Order dated 28.06.2006 on the face of it same is unsustainable in the eye of law. Therefore, accepting the contention of applicant, O.A. is allowed and impugned order dated 19/26-07-2006 (annexure A-1/A) is quashed. However, all other contentions of parties are left open.

5. There shall be no order as to costs.



Member (A)



Member (J)

/M.M./