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Central Administrative Tribunal,
Cuttack Bench, Cuttack.

Original Application No. 69 of 1986.

The 18th day of August, 1986.

K.Sunderamma Petitioner.
M/s C.A.Rao & C.M.K.Murty, Advocates : For Petitioner.

Versus

Union of India & others ... Respondents.
Mr. ~~Sanjay~~ L.K.Mohapatra, Standing
Counsel (Railways). ... For Respondents.

C O R A M :

The Hon'ble Mr. B.R.Patel, Vice Chairman.

And

The Hon'ble Mr. K.P. Acharya, Member (Judicial



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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the judgment ? Yes .
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J U D G M E N T

K.P. ACHARYA, MEMBER (J).

This is an application under section 19 of the Administrative Tribunals Act, 1985 praying therein to quash the impugned order which is said to have been passed by the General Manager, South Eastern Railways exercising his revisional jurisdiction under Rule 25 of the Railway Servants (Discipline and Appeal) Rules reviewing the order of the disciplinary authority of the petitioner dropping the proceeding initiated against the petitioner on an allegation of shortage of certain railway properties kept in the custody of the petitioner.

2. Shortly stated the facts of the case are that the petitioner was a Matron Grade III in the South Eastern Railway Hospital/^{stationed} at Khurda Road. She was asked to show cause for being responsible for the shortage in stores whose value would be about Rs.6,588.91. The petitioner submitted her explanation denying the charges and an enquiry was conducted on the direction of the disciplinary authority. The Inquiry Officer held the petitioner to be not guilty of the charges and the disciplinary authority agreed with the finding and dropped the proceeding. The General Manager, S.E. Railways, vide his order dated 11.3.1986 (Annexure-3) exercising his jurisdiction under Rule 25 of the Railway Servants (Discipline & Appeal) Rules, 1968 directed the matter to be re-opened and a *denovo* inquiry to be held. This order is under challenge.

3. Mr. Murty, the learned counsel for the petitioner contended that the impugned order cannot be



be acted upon as it has been passed by the General Manager far beyond the prescribed period of limitation. Rule 25 contemplates the power of review of different authorities.

4. In this connection, the provisions contained in the proviso to Rule 25 (1) is relevant for the present purpose. Mr. Mohapatra, the learned Standing Counsel appearing for the respondents contended that there is no prescribed limitation for a General Manager exercising his jurisdiction under Rule 25. It runs thus :

" Provided further that no action under this rule shall be initiated by (a) an appellate authority other than the President or (b) the reviewing authorities mentioned in item (v) of sub-rule (1)-

- (i) more than six months after the date of the order to be reviewed in cases where it is proposed to impose or enhance a penalty, or modify the order to the detriment of the railway servant; or
- (ii) more than one year after the date of the order to be reviewed in cases where it is proposed to reduce or cancel the penalty imposed or modify the order in favour of the railway servant.

Note (1) The time limits for review of cases mentioned in this proviso shall be reckoned from the date of issue of the orders proposed to be reviewed. In cases where original order has been upheld or modified or set aside by the appellate authority, the time-limit shall be reckoned from the date of issue of the appellate orders.

(2) When review is undertaken by the Railway Board or the General Manager of a Zonal Railway or an authority of the status of a General Manager in any other Railway Unit or Administration, when they are higher than the appellate authority, and by



the President, even he is the appellate authority, this can be done without restriction of any time-limit".

The note appended to the said proviso clearly lays down that the prescribed period of limitation has no application to the orders passed by the General Manager. Admittedly, the General Manager is not the appellate authority of the petitioner which could have divested the power conferred on him under Rule 25 (2). Admittedly the appellate authority of the petitioner is the Chief Medical Superintendent. Therefore, we are of opinion that there is no limitation prescribed so far as the General Manager is concerned while exercising his powers under Rule 25. Though this contention has found place in the application presented into the Tribunal, during the course of argument Mr. Murty very fairly and rightly conceded to the position that no limitation is prescribed for the General Manager to exercise his powers under Rule 25. Therefore, the aforesaid case of the petitioner which finds place in the original application has no merit at all. In such circumstances, we hold that the order under challenge cannot be struck down on the ground that it is barred by limitation. As regards merit of the impugned order, we do not like to interfere with the discretion of the General Manager in passing the impugned order because no malafide or bias having been pleaded against the General Manager, we think that we will not be justified in laying our hands for interference at this stage.

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5 . Mr. Murty submitted that while disposing of this matter , the Tribunal should give some relief to the petitioner in regard to her choice for having a defence counsel. Law gives a right to delinquent officer to properly defend himself and adequate opportunity must be given to every Government servant to properly defend himself/herself. It was mentioned to us that the petitioner had chosen one Mr. D.S.N.Sharma stationed at Khurda Road to defend the petitioner . The authorities had no objection but unfortunately Sri Sharma could not make himself available during the inquiry for some certain administrative reasons . Taking into consideration the totality of the facts and circumstances of the case, we would direct that the said Mr. Sharma be made available to defend the petitioner on the date/ dates of inquiry and the inquiry should take place at Khurda Road. The inquiry should be disposed of as soon as possible preferably within four months from the date of receipt of the judgment by Respondent No.2.

Subject to the aforesaid observations, the application stands dismissed but without costs .

B.R.Patel, Vice Chairman.

9 agree .

K. S. Roy
18/8/86
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Member (Judicial)
18.8.86.

B. R. Patel
.....
Vice Chairman.
18.8.86.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
The 18th day of August, 1986/D.C.Roy.

