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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 619 OF 1996

Cuttack, this the 7th day of October, 1999

Mr.G.V.Rao

.....

Applicant

Vrs.

Union of India and others

.....

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

U. (G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.10.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 619 OF 1996

Cuttack, this the 7th day of October, 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDL.).

....
Mr. G.V.Rao, At-Raja Bazar, P.O-Jatni, District-Khurda

.....Applicant.

Advocate for applicant - Dr.V.Prithvi Raj &
S.V.R.Murthy.

-versus-

1. Union of India, represented through
the General Manager, South Eastern Railway,
Garden Reach, Calcutta-43.
2. The Divisional Railway Manager, South Eastern Railway,
Khurda Road.
3. The Senior Divisional Commercial Manager,
South Eastern Railway, Khurda Road.
4. The Chief Commercial Manager, South Eastern Railway,
Garden Reach, Calcutta-43.
5. The Additional Divisional Railway Manager,
South Eastern Railway, Khurda Road.
6. Mr.G.B.Rao, T.T.E., Qr.No.C/11/K,
At-Traffic Colony, PO-Jatni, District-Khurda

....Respondents

S.Jam.
Advocates for respondents - M/s B.Pal, A.K.Mishra
P.C.Panda, S.K.Ojha & S.Das
M/s A.M.Mohapatra,
G.C.Patnaik, RC Sahoo,
B.Nayak (for R-6)

ORDER (ORAL)
SOMNATH SOM, VICE-CHAIRMAN
In this Application under Section 19 of
Administrative Tribunals Act, 1985, the petitioner has

prayed for quashing the charges dated 10.7.1991 (Annexure-1) against him, the order of punishment of the disciplinary authority dated 6.5.1993 at Annexure-5 and its enclosure which is the speaking order, the order dated 13.8.1993 (Annexure-11) of the appellate authority disposing of the appeal filed by the petitioner, the order dated 10.5.1994 (Annexure-12) of the revisional authority enhancing the punishment, and the order dated 19.3.1996 (Annexure-14) rejecting his appeal against the order of the revisional authority enhancing the punishment.

2. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. It will suffice to note that while the applicant was working as Travelling Tickets Examiner (TTE) and was on duty on 10.12.1990 in Howrah Madras Coromandal Express it was alleged that he had demanded and accepted Rs.101/- from a passenger, who was the complainant, over and above the actual reservation charge of Rs.29/- in the running train. The second charge was that the applicant was detected to be possessing excess cash of Rs.510/- without any authority and he had also not declared the personal cash while boarding the train at Khurda Road Railway Station for duty. After enquiry the disciplinary authority in his order dated 6.5.1993 accepted the findings of the inquiring officer and imposed on the applicant the punishment of reversion to the post of Ticket Collector in the grade of Rs.950-1500/- for a period of two years with effect from 1.6.1993. It was also ordered that after reversion he will draw his pay at the minimum of the grade of Rs.950-1500/-. It was further ordered that the punishment of reversion shall operate to postpone future increments. It is relevant to note at this stage that prior

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to reversion the applicant was in the scale of Rs.1200-2040/-. The appeal filed by the applicant was disposed of in order dated 13.8.1993 at Annexure-11. The appellate authority took the stand that the intention of the disciplinary authority was to reduce the applicant in rank from the scale of pay of Rs.1200-2040/- to that of Rs.950-1500/- for a period of two years and this is a substantial punishment and therefore the order fixing the pay at the beginning of the pay scale at Rs.950/- was not warranted and was also not supported by any rule. The appellate authority also took the stand that this would amount to double punishment. In view of this, the appellate authority modified the punishment by ordering that after reversion to the rank of Ticket Collector the applicant may be allowed to draw the same pay as he was drawing before the punishment was imposed and if this stage is not available in the lower scale of pay, then the next lower stage immediately below in the reduced time scale of pay for two years. The order of the appellate authority was passed, as earlier noted, on 13.8.1993. The revisional authority took up a case of suo motu revision and in his order dated 10.5.1994 enhanced the punishment by stating that the penalty of reduction to the post of Ticket Collector in the pay scale of Rs.950-1500/- imposed on the applicant would remain operative for a period of five years instead of two years as ordered by the disciplinary authority and upheld by the appellate authority. The applicant's further appeal against the order of the revisional authority was rejected by the General Manager in his order dated 19.3.1996 which is at Annexure-14. The petitioner has challenged the different orders on the grounds that the findings of the inquiring officer and the disciplinary authority are against the weight

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of evidence and the revisional authority has not given the applicant any opportunity to show cause before enhancing the punishment.

3. The respondents have appeared and filed counter opposing the prayer of the applicant.

4. We have heard Dr.V.Prithviraj, the learned counsel for the petitioner and Shri B.Pal, the learned Senior Penal Counsel for the Railways and have also perused the records. The learned counsel for the petitioner has filed a written note of submissions which has also been taken note of.

5. In the instant case the order of the appellate authority was passed on 13.8.1993 (Annexure-11) and against this order the applicant had not gone on revision. In view of this the applicant cannot be allowed to challenge the order of the appellate authority. So far as the order of the revisional authority enhancing the punishment is concerned, on a reference to the relevant rules it is clear that this order is not sustainable. The relevant rule is Rule 25 of the Railway Servants (Discipline & Appeal) Rules, 1968. The first proviso (a) to clause (v) of sub-rule (1) of Rule 25 of the said Rules provides that no order imposing or enhancing any penalty shall be made by any revising authority unless the Railway servant has been given reasonable opportunity of making a representation against the penalty proposed. The third proviso to clause (v) of sub-rule (1) of Rule 25 provides that no action under Rule 25 shall be initiated more than six months after the date of the order sought to be revised where it is proposed to impose or enhance a penalty or modify the order to the detriment of the Railway servant.

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In this case, admittedly, before enhancing the punishment of reversion from a period of two years to that of five years no opportunity was given to the applicant to show cause against the penalty proposed. It is also seen that while the appellate order was passed on 13.8.1993, the order of the revisional authority enhancing the punishment was issued on 10.5.1994, i.e., after expiry of more than eight months. On the above two grounds, the order of the revisional authority enhancing the punishment under Annexure-12 cannot be sustained and therefore it is hereby quashed. In view of this, the order of the appellate authority will hold the field, and the punishment imposed by the disciplinary authority as modified by the appellate authority should be worked out, if the same has not already been done.

6. In the result, therefore, the Original Application is disposed of with the above observation and direction, but, under the circumstances, without any order as to costs.

1. (G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.5.99