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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 215 of 2000
Cuttack, this the 1st day of September, 2004

CORAM :

HON'BLE SHRI B.N.SQM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY, MEMBER (J)

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Krushna Chandra Panda, aged about 49 years, S/o. Late Suryanarayan Panda, At-Anantagiri, P.O. Brahman Tarala, P.S. Kasibadula, Dist. Sikkakulam (A.P.) at present working as Jr. Booking Clerk, S.E.Rly, Cuttack, Qr.No.E-S/1, Rly. Quarter S.E.Railway, Cuttack.

..... Applicant

Advocates for the applicant - M/s. D.R.Pattnayak, M.K.Khuntia,
A.K.Routray, N.S.Panda.

Vrs.

1. Union of India, represented by its General Manager, South Eastern Railway Garden Reach, Calcutta.
2. Senior Division Commercial Manager, S.E.Rly, Khurda Road, At/P.O./Dist. Khurda.
3. Divisional Railway Manager S.E.Rly, Khurda Road, At/P.O./Dist. Khurda.

..... Respondents

Advocates for the Respondents - M/s S.Roy, A.A.Khan.

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Krushna Chandra Panda has filed this O.A. assailing the order of punishment dated 7.6.98, issued by the Disciplinary Authority and the order dated 16.9.99 (Annexure-5) passed by Additional Divisional Railway Manager under Rule 25 of the Railway Servants (D&A) Rules, 1968 setting aside the order of the Disciplinary Authority and the order dated 1.10.99 passed by the Senior Divisional Commercial Manager, Khurda Road (Annexure-6) giving him showcause why the disciplinary case initiated against him should not be reopened from the stage of enquiry for taking fresh view in the matter.

2. The case of the applicant is that, the order of the Disciplinary Authority, which was passed on 7.6.98, was amenable to be revised by the Appellate Authority within a period of six months from the date of passing of that order. By quoting Rule 25 of Railway Servants (D&A) Rules, 1968, he has argued that no action can be initiated by the Appellate Authority after six months of the order, specially when it is proposed to enhance the penalty ⁱⁿ ^{to} ^{the} detriment to the interest of the Railway servant. Citing the Railway Board's letter No. E(D&A) 63, RG 6-33 dated 30.9.63, he has submitted that no disciplinary case should be reopened where more than six months time has passed away. He has, therefore, submitted that by reopening the matter after six months of passing of the order by the Disciplinary Authority, Respondents have violated the provisions of Article 14 and 16(i) of

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the Constitution.

3. Respondents in their ^{counter} order have taken the position, that the charges against the applicant, involved integrity of the official and were proved during the course of enquiry. The allegation against the applicant was that he had charged Rs.10 from a passanger as clerkage charge while granting refund. It was on the basis of the enquiry report that the Disciplinary Authority issued the punishment order dated 7.6.98. However, the order of the Disciplinary Authority was reviewed by ADRM, Khurda Road, on his own motion. He set aside the punishment order and directed the Sr. DCM, Khurda Road to reopen the case from the stage of enquiry and to take a fresh decision in the matter. The applicant was duly intimated about the order of the ADRM, Khurda dated 16.9.99. While the representation of the applicant against decision of reopening the matter was under consideration, the applicant, without waiting for a decision, filed this O.A. and therefore, the O.A. was premature in the eye of law. Hence, they have argued that the orders under Annexures-5&6 are unassailable. By filing an Additional Counter, they have now disclosed that in consideration of the representation of the applicant, dated 1.10.99, the penalty imposed by the Disciplinary Authority, has not been enhanced by the competent authority. They have, therefore, submitted that the O.A. has become infructuous.

4. We have heard the Ld. Counsel for the rival parties and have also perused the records placed before us.

5. The issue raised by the applicant is that the

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Appellate Authority, i.e., ADRM, Khurda Road, had no jurisdiction to pass the order dated 16.9.99, after expiry of six months of the order passed by the Disciplinary Authority under Rule 25 of Railway Servants (D&A) Rules, 1963. The Respondents in their counter have not submitted any reply to this objection at all. During oral argument, on our query, the Ld. Counsel for the Respondents could not throw more light in the matter. The fact of the matter is that this aspect of the case can not be rebutted by the Respondents.

6. It is, therefore, clear that the Appellate Authority had acted beyond his jurisdiction by passing the order for reopening of the matter to the detriment of the interest of the applicant after six months of the order passed by the Disciplinary Authority. However, this has become a mere academic issue, as the Respondents by their letter dated 16.7.02 (Annexure-R/8) have disclosed that after going through the relevant records and considering the representation of the applicant, dated 11.10.99, it has been decided not to enhance the penalty imposed by the Disciplinary Authority. As the sole grievance of the applicant in this O.A. was that the Appellate Authority had no jurisdiction to reopen the case after six months of passing of the order by the Disciplinary Authority to the detriment of his interest, the same stands redressed as the Respondents hereby their letter dated 16.7.02 (R/8) have decided not to modify or enhance the punishment imposed on the applicant and close the case.

7. In this view of the matter, we are of the opinion

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that the O.A. has become infructuous and is disposed of accordingly. No costs.



(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

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