

3

## ORIGINAL APPLICATION NO. 109 OF 2006

### ORDER DATED: 07.02.2006

Applicant, M.Sundar Raj, was working as a Chief Booking Supervisor in Waltair Division of East Coast Railways and was posted within the Andhra Pradesh. He faced a disciplinary proceeding while working/posted within Waltair Division/Andhra Pradesh. Under Annexure-A/8 dated 15.07.04, he faced the punishment. The punishment order was issued (by an authority posted within Andhra Pradesh) on the Applicant, who was, at the relevant time, posted within Andhra Pradesh. He preferred an appeal to an authority posted within Andhra Pradesh. The appeal was disposed on 13.09.04 (as is seen under Annexure-A/10) by an authority posted within the Andhra Pradesh. At present, the Applicant is residing in the District of Visakhapatnam in Andhra Pradesh. Being aggrieved by the punishment order (passed under Annexure-A/8 dated 15.07.04) and the appellate order (passed under Annexure-A/10 dated 13.09.04) the Applicant has preferred this Original Application under Section 19 of the Administrative Tribunals Act, in this Bench of CAT, located at Cuttack, having territorial jurisdiction only within the State of Orissa.

*APP*

2. For the reason of Rule 6 of Central Administrative Tribunal (Procedure) Rules, 1987, this O.A. is not maintainable before this Bench of CAT, having headquarters at Cuttack. Rule 6 of CAT (Procedure) Rules 1987 (as amended by Govt. of India notification dated 11<sup>th</sup> October, 1988 and taken effect from 24<sup>th</sup> October, 1988) is extracted herein below for a ready reference:-

*J*

4  
 "6. Place of filing application- (1) An application shall ordinarily be filed by an Applicant with the Registrar of the Bench within whose jurisdiction-

- (i) the Applicant is posted for the time being, or
- (ii) the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1), a person who has ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

3. Since, the Applicant is residing within the territorial jurisdiction of Hyderabad Bench of the CAT and, since disciplinary proceeding against the Applicant started, continued and completed at a time when the Applicant was posted within Andhra Pradesh, and since, Appellate Authority, posted within the Andhra Pradesh, passed the appellate order within Andhra Pradesh, the entire cause of action (for an application under Section 19 of the Administrative Tribunals Act, 1985 by the Applicant) comes within the territorial jurisdiction of the Hyderabad Bench of this Central Administrative Tribunal and, therefore, this case is certainly not maintainable within the territorial jurisdiction of Cuttack Bench of the CAT, having territorial jurisdiction within the State of Orissa. That apart, the

4  
 8

Applicant is presently residing within Andhra Pradesh and, on that count also, this case is not maintainable.

4. Mr. Achintya Das, Ld. Counsel for the Applicant, having faced with this territorial jurisdiction point, has pointed out that the Applicant has simultaneously approached the Revisional Authority for redressal of his grievances and, that, since the Revisional Authority is posted within the territorial jurisdiction of Cuttack Bench of the CAT, this case may be entertained by this Bench.

5. Revision is not a right of a Railway servant. Right to revise a punishment vests with the authorities of the Railways for the reason of Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968. Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968 reads as under:

“ 25. Revision- (1) Notwithstanding anything contained in these rules-

- (i) the President, or
- (ii) the Railway Board, or
- (iii) the General Manager of a Zonal Railway or an authority of that status in any other Railway unit or Administration, in the case of a Railway servant under his or its control, or
- (iv) the appellate authority not below the rank of a Deputy Head of the Department or a Divisional superintendent in cases where no appeal has been preferred, or
- (v) any other authority not below the rank of a Deputy Head of Department or a Divisional superintendent, in the case of a Railway servant serving under its control;

May at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revise any order made under these rules or under the rules

5

repealed by rule 29 and may, after consultation with the commission where such consultation is necessary-

- (a) confirm, modify or set aside the order; or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as it may deem fit;

Provided that-

- (a) 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;
- (b) where it is proposed to impose any of the penalties specified in clauses (v) to (ix) (both inclusive) of Rule 6 or to enhance the penalty imposed by the order under revision, to any of the penalties specified in these clauses, subject to the provisions of Rule 14, where no enquiry in the manner laid down in Rule 9, has already been held, no such order shall be passed except after consultation with the Commission where such consultation is necessary and unless such inquiry has been held, and
- (c) subject to the provisions of Rule 14, the revising authority shall-

- (i) where the enhanced penalty which the revising authority proposes to impose, is the one specified in clause (iv) of Rule 6 and falls within the scope of the provisions contained in sub-rule (2) of Rule 11; and
- (ii) where an inquiry in the manner laid down in rule 9, has not already been held in the case.

S

Itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9 and thereafter, on a consideration of the proceedings of such inquiry, pass such orders as it may deem fit;

Provided further that no power of revision shall be exercised under this rule:

- (i) by the appellate or revising authority where it has already considered the appeal or the case and passed orders thereon; and
- (ii) by a revising authority unless it is higher than the appellate authority, where an appeal has been preferred or where no appeal has been preferred and the time limit laid down for revision by the appellate authority, had expired.

*Note-* This proviso shall not apply in cases of revision by the President.

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

- (i) more than six months after the date of the order to be revised 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 revised 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 revision of cases mentioned in this proviso shall be reckoned from the date of issue of the orders proposed to be revised. In a case where the 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.

*Note (2)-* When revision 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 when he is the appellate authority, this can be done without restriction of any time limit.

(2) No proceeding for revision shall be commenced until after-

- (i) the expiry of the period of limitation for an appeal, or
- (ii) the disposal of the appeal, where any such appeal has been preferred;

Provided that the provisions of this sub-rule, shall not apply to the revision of punishment in case of railway accidents."

6. An incisive analysis of the language appended to Rule 25 of Railway Servants (Discipline and Appeal) Rules, 1968 goes to show that the Revisional Authority may, at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revise any order made under the Rules. It also shows that whenever appeal has not been preferred, the Appellate Authority may exercise the revisional powers. Thus, Revisional Authority can exercise the powers to scrutinize the records of the Disciplinary Authority for confirmation or modification of the order passed by the Disciplinary Authority or set aside the same. The Revisional Authority has also got the powers to enhance or reduce the punishment. The Revisional Authority has also got power to remit the case. But no where right has been created with the Railway servant to insist for revision of an order passed against him. At best, for the reason of the word 'otherwise'



used in Sub Para 1 of Rule 25, a Railways servant can pursue the Revisional Authority to invoke his revisional jurisdiction; but not as of right.

7. Apart from what has been discussed above, the Appellant has only represented to the Revisional Authority who is posted within the territorial jurisdiction of this Tribunal. The revision has been filed on 22.03.05. And, it has been disclosed by Mr. Achintya Das, Ld. Counsel appearing for the Applicant that the Revisional Authority is still in session of the matter and has not yet passed any order. Thus, this case is a premature one; on the face of the fact that a revision petition is still pending.

8. Judging from both the angles, this case at the instance of the Applicant (who is residing within the territorial jurisdiction of Hyderabad Bench of the CAT) is not maintainable and, therefore, the same is dismissed.

9. However, since revision is pending for long time, this dismissal of the case shall not stand before the Respondents to dispose of the revision expeditiously, preferably within a period of 90 days.

10. Send copies of this order to the Respondents, along with copies of the Original Application, and free copies of this order be handed-over to Mr. Achintya Das, Ld. Counsel appearing for the Applicant and to Mr. R.C.Rath, Ld. Standing Counsel for the Railways; who were heard in extenso. A free copy of this order be also sent to the Applicant in the address given in the Original Application.

*Yehan S*  
07/02/06  
MEMBER (JUDICIAL)