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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.399/2012
With MA No.196/2012

Jodhpur, this the 23rd day of September, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Dinesh Dutt Mishra s/o late Shri Uma Dutt Mishra, aged about 53 years, resident of House No.38, New Ambika Colony, Near Mahaveer Cinema, Abu Road, last employed on the post of Train Conductor under CTI (A)- Ajmer, North Western Railway.

.....Applicant

Mr.J.K.Mishra, counsel for applicant

Vs.

1. Union of India through the General Manager, North Western Railway, Hqrs, Jaipur Zone, Chainpura, Jagatpura, Jaipur, Rajasthan
2. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.
3. Senior Divisional Commercial Manager, North Western Railway, Abu road.

...Respondents

Mr. D.S.Fedric, proxy counsel for Mr. K.K.Vyas, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

Heard on Misc. Application No.196/2012 for condonation of delay.
After considering the averments made in the MA and the reply of the respondents, the same is allowed and delay, if any, in filing the present OA is condoned.

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2. By way of filing the present OA, the applicant has challenged the impugned memorandum dated 30.4.2011 (Ann.A/1) by which penalty of dismissal from service with immediate effect has been imposed on him and claimed the following reliefs:-

- (ii) That impugned order dt. 30.4.2012 (Annexure A-1) may be declared illegal and the same may be quashed. The respondents may be directed to allow all consequential benefits to the applicant as if the impugned order never existed. Any adverse order if passed, of his revision petition may also be quashed.
- (iii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

3. Brief facts of the case, as stated by the applicant, are that the applicant was initially appointed on the post of Ticket Collector in the year 1978 and was lastly promoted to the post of Train Conductor. The applicant was implicated in a criminal case and FIR was lodged in GRP, Police Station, Abu Road. He was taken into police custody on 30.4.2011 and was also imposed penalty of dismissal from service vide order dated 30.4.2011 under rule 14(2) of the Railway Servants (Discipline and Appeal) Rules, 1968. The order of penalty has been challenged by the applicant on the ground that the order has been passed in hurry due to some extraneous reasons. All the prosecution witnesses including the complainant lady have given their statements in criminal court without any resistance and there is no cogent reason to conclude that proper inquiry could be held in the matter and decision to dispense with inquiry was taken only on conjectures and surmises. The applicant has further averred that he was sent to judicial custody and was enlarged on bail by Rajasthan High Court on 13.3.2012. He could not prefer appeal against the penalty order as he was under detention during the period he could have preferred appeal and after his

release he had to concentrate on his trial in the criminal case. The applicant has been honourably acquitted from the criminal charges vide judgment dated 8.6.2012. He has preferred a revision petition under Rule 25 of the Railway Servants (D&A) Rules on 14.6.2012 and also sent reminder vide letter dated 2.7.2012 requesting expeditious decision on revision petition. When there was no response in the matter, he has filed this OA praying for the aforesaid reliefs.

4. The respondents by way of filing reply submitted that the applicant was taken into police custody on 30.4.2011 at Abu Road Railway Station in a rape charge and penalty of dismissal from service was imposed vide order dated 30.4.2011. The charges against the applicant were so heinous/hatred act for a public servant, therefore, the Disciplinary Authority imposed exemplary punishment under DAR Rule 14(2). It has been further stated that the applicant filed revision petition dated 14.6.2012 under Rule 25 of the Railway Servants (DAR) Rules, 1968 but failed to submit his appeal under Rule 18 of the Railway Servants (DAR) Rules, 1968 within a period of 45 days and the revision petition was not maintainable. It is further averred that it was not practicable to hold an enquiry. The applicant was a public officer working on running trains for protection of passengers and his behaviour and act must be good to protect the image of the railway in public. The applicant's act was not becoming a railway servant. The Disciplinary Authority applied its mind and imposed penalty which is correct under the circumstances and it was not issued in colourable exercise of powers.

5. Heard the counsel for both parties. The counsel for the applicant contended that against the punishment order of dismissal, the applicant preferred revision petition before the competent authority and the same has not been decided by the competent authority. The revision petition has been filed by the applicant under Rule 25 of the Railway Servants (Discipline and

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Appeal) Rules, 1968 on 14.6.2012 and he has also sent reminder vide letter dated 2.7.2012 requesting for expeditious decision on the revision petition, but there has not been any response in the matter.


6. The counsel for the respondents contended that revision petition is pending before the competent authority, therefore, this Tribunal may give direction to the competent authority to take decision on the revision petition within a reasonable time.

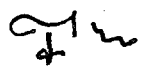
7. At this stage, the counsel for the applicant contended that the respondent department may be directed to treat the revision petition as appeal, but we are not inclined to pass any such order and the applicant may move to the revisional authority to treat the revision petition as appeal and the authority concerned is expected to pass order accordingly as per provisions of law.

8. It is admitted case between the parties that a review petition is pending before the competent authority and the same needs to be disposed of within a reasonable time, therefore, we propose to dispose of this OA with certain directions.

9. Accordingly, the OA is disposed of with direction that the competent authority shall decide revision petition of the applicant within a period of three months from the date of receipt of a copy of this order.

10. With these observations and directions, the OA stands disposed of with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C. JOSHI)
Judicial Member

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