CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 548/2005

TUESDAY THIS THE 31st DAY OF JULY 2007

C O R A M

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

P. Ayyanar S/o S. Perumal
Junior Engineer Engineer /I/C&W
Coimbatore, Palakkad Division
Southern Railway,
Permanent Address: 5/4-C
Dharmar Koil Street
Annur,Coimbatore Distt. .. Applicant

By Advocates M/s TC Govindaswamy, Heera D,
P.N. Pankajakshan Pillai, Sandeep Kumar S. and Sumy P. Baby

Vs.

1 Union of India through the General Manager
Southern Railway, Headquarters Office
Park Town PO, Chennai-3

2 The Chief Rolling Stock Engineer
Southern Railway, Headquarters Office
Park Town PO, Chennai-3

3 The Divisional Railway Manager
Southern Railway, Divisional Officer
Palakkad Division, Palakkad

4 The Senior Divisional Mechanical Engineer,
Southern Railway, Divisional Officer
Palakkad Division, Palakkad

5 The Chief Personnel Officer.
Southern Railway, Headquarters Office
Park Town PO, Chennai-3

6 The Senior Section Engineer,
Carriage & Wagon
Southern Railway, Erode. .. Respondents

By Ms. P.K. Nandini.

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant is a Junior Engineer Grade-I (Carriage & Wagon) working at Coimbatore of Palakkad Division of Southern Railway with 14 years of service. When he was working as Junior Engineer, Grade-II at Erode, he was imposed a penalty of withholding of two sets of privilege ticket orders. This was in terms of letter No. J/T5/1/D6/8/02 dated 14.8.2002 issued by the 4th respondent. On suo motu revision, the 3rd respondent enhanced the penalty as withholding of increment for a period of two years in terms of an order No. J/T5/1/D6/8/02/PA dated 5.8.2003. The enhanced penalty being arbitrary and discriminatory, the applicant submitted an appeal to the second respondent who by his order No. P(A) 90/Misc/391 dated 2.7.2004 confirmed the penalty. On submission of revision under rule 25(1)(iii) of the Railway Servants (Discipline & Appeal) Rules, 1968 to the first respondent, the 5th respondent interfered and refused to entertain the revision on the ground that second revision was not permissible. The following orders of the respondents are challenged in this O.A.:

(i) Annexure A-11 order of the 3rd respondent revising the penalty under Rule 25 of the Railway Servants Discipline and Appeal Rules, 1968

(ii) Annexure A-13 -the appellate order of the second respondent dated 2.7.2004 rejecting the appeal and upholding the enhanced penalty.

(iii) Annexure A-15 order dated 30.12.2004of the 5th respondent to the effect that the revision petition submitted by the applicant cannot be considered as there is no provision for further revision under the rules.

2 The following reliefs have been sought:

(a) call for the records leading to the issue of Annexure A-11, A-13 and A-15 and quash the same.

(b) direct the respondent to pay the consequential arrears of pay and allowances

© award costs and incidental to the application

(d) pass such other order or directions as deemed just fit and necessary in the facts of the circumstances of the case.

3 The challenge to the above orders is mainly based on the following propositions advanced by the applicant namely:

(i) The Divisional Railway Manager has no power to exercise suo motu revision in as much no enquiry is held and no revision therefore can be made.

(ii) The orders suffer from the legal infirmity of imposing a second penalty on one and the same offence.

(iii) that the appellate authority did not discharge his duty under Rule 25oftheDisciplilne & Appeal Rules and rejected the appeal by a non-speaking order.

(iv) that the 5th respondent was not competent to interfere in the disciplinary proceedings nor reject the review petition and he has thus prevented the competent authority from considering the revision petition.

4 The respondents have filed reply and additional reply statements denying the averments of the applicant. The applicant has also filed rejoinder to the reply statements.

5 The respondents have also brought on record the instructions of the Railway Board as in Annexure R-1 to R-4 series.

6 We have heard in detail the submissions of the learned counsel for the applicant and the learned counsel for the respondents Railways. The learned counsel for the applicant relied on the judgment of the Apex Court in (i) Union of India and Others Vs. Braj Nandan Singh (2005 SCC (L&S) 1139 and (ii) State of Punjab and Others Vs. Ram Singh (AIR 1992 SC 2188) and elaborately dealt with the rule position in the Railway Servants (Discipline & Appeal) Rules, as it has evolved during a period of time from 1961 to 1980.

7 In the light of the pleadings before us and the arguments advanced by the rival parties, we shall deal with the grounds of challenge to the impugned orders:

Annexure A-11 order dated 5.8.2003

8.1 As already pointed out above, the applicant who was working as Junior Engineer was imposed the penalty of withdrawal of two sets of privilege tickets by Annexure A-4 order dated 14.8.2002. The charges against him were that he had failed to ensure that the Wagon No. CR FR 63992 was checked properly by the C/W staff and the said dereliction of duty violated the Railway Servants Conduct Rules. This order was revised by the Annexure A-11 order suo motu by the 3rd respondent by enhancing the penalty as withholding of increments for a period of two years. The applicant has averred that the said order was based on errors of law and fact apparent on the face of records as the 3rd respondent is not permitted to exercise the power of "suo motu" revision as the power is subject to the condition that an enquiry under the D&A Rules should have

been conducted and the records of such enquiry should have been considered before revising the punishment. According to the applicant the word "and" between the words "enquiry" and "revised" in the rules indicates that the enquiry was mandatory before revising the order. 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 Railway Administration or an authority of that status in the case of a Railway servant under his or its control; or

(iv) the appellate authority not below the rank of a Divisional Railway Manager in cases where no appeal has been preferred:

(v) any other authority not below the rank of a deputy Head of a Department, 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 repealed by Rule 29, after consultation with the Commission where such consultation is necessary, and may)-

(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

© 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 concerned has been given a reasonable opportunity of making a representation

against the penalty proposed.

(b) subject to the provisions of Rule 14, where it is proposed to impose any of the penalties specified in Clauses (v) to (ix) of Rule 6 or the penalty specified in Clause (iv) of Rule 6 which falls within the scope of the provisions contained in sub rule (2) of Rule 11 or to enhance the penalty imposed by the order under revision to any of the penalties specified in this sub clause, no such penalty shall be imposed except after following the procedure for enquiry in the manner laid down in Rule 9, unless such inquiry has already been held, and also except after consultation with the Commission, where such consultation is necessary.

(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.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these rules.

(4) No power of revision shall be exercised under this Rule-

(i) by the appellate or revising authority where it has already considered the appeal on 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, has expired

Provided that -

nothing contained in Clauses (i) and (ii) above, shall apply to revision by the President.

5 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)-

after more than six months from 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 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.

Provided that when revision is undertaken by the Railway Board or the General Manger 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.

Explanation- For the purposes of this sub rule the time limits for revision of cases shall be reckoned from the date of issue of the orders proposed to be revised. In cases where original order has been upheld by the appellate authority, the time limit shall be reckoned from the date of issue of the appellate orders."

Note:- Time limit for revision petition is 45 days from the date of delivery of the order sought to be revised. Where no appeal has been preferred against the order of the disciplinary authority the time limit of 45 days will be reckoned from the date of expiry of the period of limitation for submission of appeal, the authority may entertain petition after expiry of period if it is satisfied that the petitioner had sufficient cause for delay.

It is argued by the learned counsel for the applicant that the power of revision vesting with the revising authority under this rule could be exercised only if a new material or material evidence were made available to support the action and that though the applicant had raised these contentions in his representations in Annexure A-6 and A-8 in answer to the show cause notice issued by the third respondent, in they have not been considered. The applicant has further also questioned the propriety of the DRM proposing to enhance the penalty of withholding the increment for two years and 11 months vide the show cause notice, relying on the instructions of the Railway Board's letter NO. 68/Safety/43/13 dated 3.7.1968.

8.2 The respondents have contended that the DRM proposed to enhance the penalty after going through the enquiry held in connection with the derailment of Wagon on 13.6.2000. Since the penalty proposed

was withholding of increment for a period not exceeding 36 months which is only a minor penalty, no enquiry is necessary. The applicant was given another opportunity to submit explanation to the show cause notice and after considering his explanation only, the DRM has imposed the penalty.

8.3 On examining the above rival contentions we find that the grounds put forth by the applicant are not tenable in the face of the rules. Regarding the competence of the DRM for enhancing the penalty under Rule 25, it is to be noticed that the Appellate authority as stated in the penalty advice at Annexure A-4 was the ADRM Palghat, but t the applicant had not chosen to file an appeal before the Appellate authority. Sub clause (iv) of Rule 25(1) empowers the Appellate authority not below the rank of a deputy Head of a Department or the DRM, in case no appeal is preferred to undertake revision. Since no appeal has been preferred by the applicant in this case the DRM can invoke the power under this sub clause. If clause (v) is to be invoked also he is fully competent to exercise the power of revision under Rule 25.

8.4 The applicant has also referred to the words "record of enquriy" occurring in the rule and tried to argue that this would imply that an enquiry is mandatory to assess whether there is any new material or new facts available to support the revision of penalty. The "record of enquiry" here only refers to the record of the case which need not necessarily be a DAR enquiry and is certainly not a reference to any fresh enquiry to be conducted by the revising authority as made clear by proviso (b),wherein such an enquiry if not already done has been made mandatory only when the Revising authority proposes to impose any of the major

penalties. The said proviso become applicable only when it is proposed to impose the major penalty prescribed under Rule (6) or the penalty specified in clause (iv) of Rule 6 where an enquiry in the manner laid down in rule 9 is compulsory. If the enquiry was mandatory in all cases, there would have been no need to have separate provisos (a) and (b) stipulating fulfillment of the procedure of enquiry in cases under proviso (b) and all other cases to be covered by proviso (a) where only a reasonable opportunity of making a representation is to be given to the charged employee. Here the penalty imposed after revision is also a minor one, viz. a smaller minor penalty has been enhanced to a higher minor penalty only and hence holding a fresh enquiry is not at all necessary. The Rule position being explicit in the Rules, this argument is rejected. The learned counsel for the applicant also argued that the reasons given in the order by the revising authority are not correct and that the charges against the applicant has not been looked into and that the revising authority was only guided by the instructions contained in the Railway Board's orders and has blindly followed it and quasi judicial power of revision cannot be enhanced on the basis of an executive order. We have looked into the 1968 order of the Railway Board which has been produced by the respondents as Annexure R-3. The order prescribes the action to be taken and the minimum punishments which have to be awarded in accident and engine failure cases. From the wording of the rule it is clear that the these are guidelines to be kept in mind by the Disciplinary authority and these are only the minimum punishment, which could be varied by the competent authorities based on the facts of the case. In this order item 11(ii) for accidents resulting in derailments in station yard other than Open line, for the first offence, the

penalty of withholding of increment for 2 years and 11 months is indicated. Perhaps this was the reason for the Revising authority to indicate this penalty in the show case notice issued by him. However, in the final order a penalty of withholding an increment for two years has been passed. Whatever it be, it is not correct to say that the Revising authority has not based its order on any finding. Para 3 of the order clearly indicates that the authority has arrived at the finding that the applicant had failed to ensure that the Wagon is checked properly by the supporting staff, thereby he had failed in his supervisory duties resulting in derailment of the train within the station yard. There is nothing in the order to indicate that the order was passed blindly following instructions of the Railway Board in Annexure R-3.

9 Another line of attack on the illegality of this order is that the order has resulted in double jeopardy as the applicant had already suffered the punishment awarded by the Disciplinary authority. This question has also been answered by clarification issued by the Railway Board in Annexure R-4 wherein the question whether an employee already undergoing a penalty like stoppage of privilege passes can be reopened for enhancement of the penalty has already been considered. Paras 2 and 3 of the said orders which are relevant are reproduced below:-

> "2 A point has been raised as to whether in cases where a penalty is awarded and enforced and thereafter it is proposed to impose a higher penalty, it would be in order to do so if the higher penalty is of a nature that does not amount to just enhancement of the previous penalty but amounts to an additional penalty. For example, in a case where an employee may have been punished with the stoppage of privilege passes for three months and may have already undergone the punishment, the competent authority may yet impose a higher penalty, say, removal from service.

> 3 The Board are advised that Rules 1722(a) and 1725 (a) RI full discretion on the appellate and higher authorities to review a case and pass final order upholding, reducing or enhancing the original penalty. The enhancement of the penalty need not necessarily be a prolongation of the same penalty but can be a fresh penalty higher to the original one and there is no objection to infliction of such additional penalty."

The applicant's contention is not correct.

10 The learned counsel for the applicant has also invited our attention to the ratio of the judgment in State of Punjab and Ors. Vs. Ram Singh (AIR 1992 SC 2188) laying down the definition of misconduct wherein the Apex Court held "The word "misconduct" though not capable of precise definition, its reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty." We do not think it is necessary in this case for deciding the issue involved int his O.A to go into the exercise of determining whether the action of the applicant constituted misconduct or not. The word misconduct has not been used in the charges, penalty advice or in any of the impugned orders. The charge against the applicant and the finding in the order is the failure to perform duty satisfactorily and dereliction of duty. Evidently the penalty order is for a minor penalty which itself implies that it was not considered serious enough to be categorised as a grave misconduct.

11 In short we find that none of the grounds urged by the applicant on the illegality of this order is tenable.

Annexure A-13 order of the Appellate authority dated 2.7.2004

12 The challenge against this order is mainly on the grounds that the Appellate authority has not applied its mind and discharged its duty under

Rule 22 of the Discipline & Appeals Rules nor examined whether the findings of the third respondent are warranted on the facts on records. The respondents have contended that the Appellate authority has found that the procedure laid down was correctly followed and after due consideration and the penalty imposed by the DRM was just and adequate. In fact on going through the paras 2 and 3 of the above order it is seen that the authority has gone in to the doubts raised by the applicant in his representation regarding the competence of the authority for undertaking revision without enquiry, whether the penalty amounts to double jeopardy or not etc. and the Appellate authority has concluded that the power has been exercised as per the extant orders and no grounds exist to reconsider the case. We do not find any illegality in this order.

Annexure A-15 order of the 5th respondent dated 30.12.2004

13 Annexure A-15 order is not an order passed in the disciplinary proceedings. The contention of the applicant is that the 5th respondent should not have interfered in the process of entertaining the revision petition, which is totally against all rules and norms. The applicant has averred that the Revision petition has been submitted to the first respondent the General Manager, and nowhere in the Railway Servants (Discipline & Appeal) Rules it is stated that the second revision is not permissible. The respondents have averred that as the power of revision can be exercised by any of the specified authorities only once, in a case this revision petition of the delinquent was not considered and Annexure A-5 is only an intimation of the factual position to the applicant. Since that was the rule, the CPO has an inherent power to reject the revision

petition. Whether it was right on the part of CPO to have rejected the revision petition without sending it to the Revision authority merits consideration. However, the main issue to be decided here is whether the revision lies at all on an appellate order passed under Rule 25. The applicant has submitted that a revision under Rule 25(1) of the Railway Servants (D & A) Rules is of two types:- one is "suo motu" revision and the other is revision undertaken by "otherwise" clause. This clause includes the revision submitted by the employee. If "suo motu" revision is undertaken then the employee has a right to have a revision under "Otherwise" clause. If the penalty is cancelled during revision under "otherwise" clause, "suo motu" revision afterwards is permitted. By the same analogy, when "suo motu" revision is done, review otherwise should be allowed. With reference to Railway Board's letter Annexure R-5 dated 31.8.1994 the respondents submit that the power of revision can be exercised only once. To appreciate the issue better the Railway Board's letter Annexure R-5 is extracted under:-

Copy of Board's letter No.E(D&A)94/RG6-11 dated 31st August, 1994 from Dy. Director/Estt (D&A) Railway Board/New Delhi addressed to the General Manager all Railway:

Attention is invited to Board's letter NO.E(D&A)/79/RG 6-40 dated 18th August, 1981 and 19th March, 1982, under which it was clarified that Rule 25 envisages revision by any of the specified authorities only once and does not provide for further revisions, either of the original order or of the order made on revision.

Board would like to clarify that while further revision under Rule 25 is not possible,Rule 18 of D & A Rules provides for appeal against the revisionary orders in the following types of cases:

(i) If, as a result of suo motu revision, the revising authority imposes any of the penalties under Rule 6 where no

penalty had earlier been imposed, further appeal will lie to the authority to which the revising authority is immediately subordinate,in terms of Rule 18(ii) read with rule 19(1)(i).

(ii) If the revising authority enhances the penalty already imposed further appeal will lie to the next higher authority under Rule 18(iii) and 19(1)(ii).

It is therefore, clear from Rules 18, 25 that while revision is provided for only once by any one of the specified authorities, Appeals are provided for whenever there is imposition of a penalty where no penalty exists or where penalty already imposed is enhanced.

4 This is in partial modification of the clarification contained in D.O. Letter No.E(D&A) 81 RG 6-5 dated 17th November, 1981fromDE/Railway Board addressed to CPO/Western Railway and copies to CPOs of other Railways (This disposed off Western Railway's letter NO.E/DAR/308/43/4/267 dated 25th April, 1994.)

14 We have already extracted the powers of Revision provided under Rule 25 of Railway Servants (Discipline & Appeal) Rules 1968. In fact apart from Rule 25, there is no other provision dealing with revision. The rule of revision has undergone vast changes from 1961 as was elucidated by the learned counsel for the applicant. The Rules of 1961 were replaced by 1968 Rules, Rule 25 dealing with revision was introduced. Further by 1979 amendment, Rule 25 was segregated as Rule 25 and Rule 25(A). Rule 25 deals with revision and Rule 25(A) with Review. The power of review was taken away from the departmental authorities and the President alone was empowered to conduct review. Thus Rule 25 in its entirety now deals with revision only. Rule 18 deals with the appeals. Since there is no other provision dealing with revision, we have to fall back on the wording of the rule and subsequent clarifications issued by the Railway Board to decide the question raised in this case. Rule 25(1) clause (i) to(v) deal with the authorities who can

undertake revision either suo motu or otherwise and clauses (a) to (d) deals with the nature of orders to be passed either confirming or modifying or setting aside the orders. The power conferred under this rule for revision which extends to "any order made under these rules" not necessarily a penalty order and should therefore be taken to encompass an order passed by the revising authority under this Rule. The only prohibition made is the sub rule (4) stipulating the situations where the power of revision cannot be exercised. Sub rule (4) reads as under :

> **"(4) No power of revision shall be exercised under this Rule-**
>
> —
>
> (i) by the appellate or revising authority where it has already considered the appeal on 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, has expired
>
> **Provided that** nothing contained in Clauses (i) and (ii) above, shall apply to revision by the President."

15 From a reading of this it would appear that consideration of a revision under this rule is barred only when the revising authority has already considered the appeal under 4(i). But under 4(ii) a Revising authority who is higher than the Appellate authority, is competent to exercise the power of revision. This question has been time and again considered by the Railway Board on references made to it by subordinate officers and such decisions have been incorporated in the Discipline and Appeal Rules 1968 some of which reads as follows:

undertake revision either suo motu or otherwise and clauses (a) to (d) deals with the nature of orders to be passed either confirming or modifying or setting aside the orders. The power conferred under this rule for revision which extends to "any order made under these rules" not necessarily a penalty order and should therefore be taken to encompass an order passed by the revising authority under this Rule. The only prohibition made is the sub rule (4) stipulating the situations where the power of revision cannot be exercised. Sub rule (4) reads as under :

> **"(4) No power of revision shall be exercised under this Rule-**
>
> (i) by the appellate or revising authority where it has already considered the appeal on 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, has expired
>
> **Provided that** nothing contained in Clauses (i) and (ii) above, shall apply to revision by the President."

15 From a reading of this it would appear that consideration of a revision under this rule is barred only when the revising authority has already considered the appeal under 4(i). But under 4(ii) a Revising authority who is higher than the Appellate authority, is competent to exercise the power of revision. This question has been time and again considered by the Railway Board on references made to it by subordinate officers and such decisions have been incorporated in the Discipline and Appeal Rules 1968 some which reads as follows:

"Revision application to be dealt with as an appeal- Rule 25 does not provide for a right,as such, to the affected employee to seek conduct of a review (now revision) of the decision of the appellate authority in disciplinary cases and the practice of conducting automatic review on the basis of representation of employees should be discontinued.

(Rly Bd's No.E(D&A)80 RG 6-59of 1.8.1983(SE 173/83)

"These orders have been re-examined in the light of practice in other civil departments and decided that a revision application made after exhausting the avenue of appeal or where no appeal is preferred, after the expiry of period of limitation for an appeal, should be dealt with within in the same manner as if it were an appeal under the said rules provided the application for revision is otherwise in order. This does not debar suo moto revision by appropriate authority.

(Rly Bd's No.E(D&A) 84RG 6-44 dated 8.1.85(WR 29/85 SC 13/85, SE 15/85)

16 The respondents have relied on Annexure R-5 dated 31.8.94 which is a later order which has been issued in modification of the circular dated 18.8.1981 and 19.3.1982. The respondents have mainly relied on the last part of Annexure A-5 wherein it is stated that it is clear from the Rules 18 and 25 that revision is only once by any one of the specific authorities. But this can be construed to mean only that a further revision under Rule 25 for a second time is not provided for against the same order. In fact the purport of para 2 of the above letter appears to connote that Rules 18 and 25 have to be read together and that Rule 25 does not override the provisions of Rule 18 according to which further appeal will be against a revising authority's order. In this case the revision petition now submitted by the applicant is against the revision order itself after exhausting the appeal provision. Therefore, it has to be taken as a revision petition against the order of the higher authority

which has taken the action suo motu to revise the order of the disciplinary authority. Hence it cannot be called the second revision petition on the same order and would appear to fall more within the clarification provided by the Railway Board's letter dated 8.1.1985 extracted above which has been issued with specific reference to the right to file a revision petition under Rule 25 which has been directed to be dealt with as a second appeal. We are therefore inclined to take the view that the fact that a suo motu revision has been done by a Revising authority under Rule 25 does not constitute a bar shutting out the normal channel of redressal available to an employee for submitting a revision petition to a higher authority than the Appellate authority who passed the appellate order to be dealt with in the same manner as if it is a second appeal. We are also in agreement with the contention of the learned counsel for the applicant that the 5th respondent was not competent to reject the revision petition as he is not the competent authority under the D&A Rules and it should have been forwarded to the General Manager to whom it was addressed to deal within accordance with the rules and any advice on the admissibility of the petition or otherwise has to be dealt with by the General Manager and replied to by him. There was no inherent power with the 5th respondent to take such a decision on the applicant's revision petition unless any such a power was specifically delegated to him under the rules by the competent authority.

17 In this view of the matter Annexure A-15 order has to be quashed and we do so. Since we do not find any legality in Annexure A-11and A-

13 orders without going into the merits of the applicant's contention on the penalty awarded we dispose of the O.A. by directing the first respondent namely the General Manager to consider the revision petition submitted by the applicant at Annexure A-14 and dispose it off with a speaking order within a period of two months from the date of receipt of this order. The O.A. is partially allowed as above. No costs.

Dated 31.7.2007

GEROGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

kmn