CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A.NO.191/2006

MONDAY THIS THE 15TH DAY OF OCTOBER, 2007

C O R AM

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

K. Raghavan, Sorting Assistant
Railway Mail Service, EK Division
Ernakulam
residing at Cherupunathi House,
Post Office, Road, Thevara, Ernakulam .. Applicant

By Advocate Mr. K.T. Shyam Kumar

Vs.

1 Union of India represented by its
Secretary, Ministry of Communications
New Delhi-1.

2 The Member Personnel,
Postal Service Board,
New Delhi.

3 The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

4 The Postmaster General
Central Region
Koch-16

5 The Senior Superintendent of Post Offices
Ernakulam. .. Respondents.

By Advocate Mr. P. Parameswaran Nair, ACGSC

O R D E R

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

This Original Application is filed against Annexures A-7 and A11 orders issued by the third respondent in exercise of powers

under Rule 29(1)(vi) of the CCS (CCA) Rules modifying the Appellate order setting aside the punishment of compulsory retirement imposed on the applicant and restricting the payment of pay and allowances for the period from the date of compulsory retirement to the date of reinstatement as subsistence allowance.

2 The brief narration of facts in the O.A. is as under:- The applicant was working as a Sorting Assistant in the Railway Mail Service (RMS), and residing in the P&T Taluk Quarters at Thevara, adjacent to the quarters of Deputy Superintendent of Railway Mail Service. In October, 1996 a strike was called in the Postal Department and majority of the employees participated in the strike. The applicant had not participated in the strike as a loyal worker and on 28.10.1996 at 9.15 p.m. the applicant met the Deputy Superintendent of RMS, Ernakulam to express his desire to work during the strike. But the Director of Postal Service who considered it as a trespass to her quarters at that time made a complaint on 29.10.1996. After a week another complaint was made against the applicant by one K.G. Muraleedharan, Deputy Director of Marine Products Exports Development Authority, Kochi, alleging that the applicant had shouted filthy language against him on 6.11.1996 at the Ernakulam RMS when Shril Muraleedharan came to see his friend Shri P.A. Thomas. The applicant was issued a charge sheet on 3.6.1997 by the 5th respondent and enquiry was

conducted and the Inquiry Officer (7th respondent) found the applicant guilty of both the charges. The punishment of compulsory retirement was imposed on him and the Appellate and Revising authorities upheld the punishment imposed. This Tribunal set aside the appellate and revisional orders in O.A. 43/2002 by order dated 29.7.2003 holding that the Appellate authority was an officer junior to the complainant and under the administrative control of the complainant. This Tribunal remanded the case back to the appellate stage and on rehearing the Appellate authority exonerated the applicant on both the charges and directed to reinstate him with full pay and allowances for the period between the compulsory retirement and reinstatement. After 14 months from the date of Appellate order exonerating the applicant the Revising authority issued a notice stating that she proposed to revise the order exonerating the applicant and thereafter order dated 26.6.2005 (Annexure A-7) was issued by the Revising authority revising the order of the Appellate authority and imposing a penalty of reduction of pay by three stages for a period of two years with further direction that the applicant will not earn increment during the period of reduction in pay. Thereafter by another order dated 26.9.05 (Annexure A-11) the Revisional authority reduced the pay and allowances which were already received by the applicant for the period from the date of compulsory retirement till reinstatement. The applicant has submitted that by these orders he has to pay back 17 months salary received by him

also that he is retiring on 31.7.2007 and his entire DCRG will not be sufficient to repay the amount. The applicant has alleged that the orders have been issued with malafides and as a part of victimisation.

3 The main grounds of challenge taken are that the Revising authority has exercised revisional powers after the period of limitation prescribed by the Rules. Rule 29(1)(v) of the CCS (CCA) Rules states that the Appellate authority can exercise the power of revision within six months of the date of the order proposed to be revised and Rule 29(1)(vi) is an extension of sub rule (v) in which the time limit has been laid down. In the instant case the revisionary powers were exercised by the third respondent after 14 months from the date of the appellate order and no explanation is given to justify the delay. Hence it is alleged that Annexure A-7 order is belated and also there is no direction in the said order setting aside the order of the appellate authority at Annexure A-2. The applicant has further contended that there is no power conferred on the Revising authority under Rule 29 of the CCS (CCA) Rules to successively revise the Appellate order and Annexure A-11 order thus issued subsequently to revise the very same Appellate order again with regard to the pay and allowances and as such it is also illegal and unsustainable.

4 The applicant has also attacked Annexure A-11 order on the ground that :-

(1) the power under sub rule (4) of FR 54 has to be exercised within a period of sixty days from the date on which notice has been served on the Government servant. In the instant case the applicant was issued notice on 7.7.2005 which was received by him on 18.7.2005 and Annexure A-11 order dated 26.9.05 was received by the applicant only on 25.2.2006. Hence it is outside the period of sixty days prescribed under the rule.

(2) Further it has been alleged that the applicant was not placed under suspension for any period. He was out of service only from 7.1.2000 following the order of compulsory retirement issued by the Disciplinary authority and once that punishment is set aside and lesser punishment is imposed on the applicant, the period during which he was out of service has to be treated as duty for all purposes. Therefore there is patent error in the order of the third respondent for payment of subsistence allowance to the applicant for the period from the dates of compulsory retirement to the date of reinstatement.

(3) Further, the applicant has also contended that the third respondent failed to appreciate the evidence adduced in the disciplinary proceedings in the proper perspective. In the evidence there was nothing to suggest that there was xx any element of threatening in the statement made by the applicant

nor was there any intention to abuse the superior officer.

5 The following reliefs are sought:

(i) Set aside Annexure A-7 and A-11 orders issued by the 3rd respondent

(ii) Direct the respondents to grant the Applicant all the benefits of Annexure A-2 order issued by the Director of Postal Services,Central Region, Kochi.

(iii) Award the costs of this proceeding.

6 Reply and additional reply statements have been filed. The respondents have denied the facts submitted by the applicant and averred that the applicant is making misleading statements. The applicant has stayed away from duty during the strike period by availing fortnightly offs and producing medical certificates. If the applicant had any real intention to work during the strike period he could have contacted the appropriate authority who were available in the office and informed of his desire to work during the strike period and it was not necessary to make his presence in the official residence of the Director of Postal Services. The second complaint against the applicant was lodged by an officer who has no acquaintance with the applicant to make a false allegation against him. On the rule position the respondents have submitted that the CPMG has acted as suo motu Revising authority and revised the appellate order in accordance with the powers conferred on her under Rule 29 of the CCS (CCA) Rules, 1965 and

the rule does not stipulate any time limit. There is no provision in the rules for citing reasons for suo motu revision. The time limit of six months is not laid down anywhere in Annexure A-8 instructions as argued by the applicant. Annexure A-8 instruction pertains to filing of revision petition by the officials and it does not prescribe any time limit for the authorities in the case of suo motu orders. In the instant case no revision petition was submitted by the applicant. Therefore the third respondent was not bound by any time limit, more so xxx there is no legal requirement as such. Further the contention of the applicant that the appellate order was not reversed by Annexure A-7 is not sustainable.

7 It has been further averred that imposing of penalty and issue of orders regarding treatment of period between compulsory retirement and reinstatement are two separate issues While Annexure A-7 order has been issued as per Rule 29 of CCS (CCA) rules, action for issue of order regarding treatment of period for pay and allowances was taken as per provisions of Rule 54 of Fundamental Rules. Therefore both the orders are different. The time limit of sixty days prescribed under sub rule 4 of FR 54 is the time limit prescribed for replying to the notice which was applicable to the applicant and not for the Revising authority. All aspects have been taken into account while issuing Annexure A-11 order and the Revising authority wanted to give the best advantageous option to the applicant and the option for subsistence allowance or

pension whichever is beneficial has been granted to him appreciating the facts and circumstances of the entire case.

8 In the additional reply statement, the respondents have reiterated the above facts and also submitted that the applicant was not recommended for promotion by the DPCs due to lack of consistent satisfactory record of service for which he is solely responsible. No delay can be attributed on the part of the respondents nor any deliberate attempt was there to deny promotion to the applicant as alleged. They have also submitted that even the Tribunal found no infirmity in the conduct of the disciplinary proceedings conducted against the applicant and the appellate and revisional orders were set aside only on technical grounds.

9 Rejoinder has been filed by the applicant only contending that he has been denied promotion to BCR Grade and his representation had not been considered properly by the respondents and also reiterating the same contentions in the O.A.

10 We have heard Shri K.T. Shyam Kumar for the applicant and Shri Shaji V.A. for Shri P. Parameswaran Nair, ACGSC appearing for the respondents and perused the records.

11 In his arguments the learned counsel of the applicant referred to the following grounds:

(i) that the power of the revising authority for modifying the appellate order in terms of Rule 29(1)(v), has not been exercised within the specified time limit as sub rule (vi) of the Rule is an extension of sub rule (v).

(ii) the third respondent has chosen to impose FR 54 to revise the appellate order under Rule 29 for a second time and that the power under FR 54 has to be exercised within a period of sixty days from the date on which notice has been served.

(iii) that the applicant was not under suspension for any period and therefore the third respondent patently erred in issuing payment of subsistence allowance for a period from the date of compulsory retirement to the date of reinstatement.

However, the thrust of the learned counsel's arguments were on the question of the time lag of 14months which had transpired before the issue of the Revision order and the period of limitation applicable to such suo motu orders.

12 We shall deal with the above contentions in the light of the averments of the respondents in the reply statement and the records produced before us. In the first instance we find that the wordings of Rule 29 of the CCS (CCA) Rules and FR 54 are self

explanatory and would clear many of the questions raised. Therefore it is considered necessary to reproduce the full text of the rules:-

"**REVISION AND REVIEW**

F.R. 29 (Revision)

"(1) Notwithstanding anything contained in these rules-

(i) the President or

X X x x x x x x x

(v) the Appellate Authority, within six months of the date of the order proposed to be revised or

(vi) any other authority specified in this behalf by the President by a general or special order, and within such time as may be prescribed in such general or special order:

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 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed,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 to or any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case or

(d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in Clauses (v) to (ix) of Rule 11 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if any inquiry under Rule 14 has not already been

held in the case, no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 14 subject to the provisions of rule 19, and except after consultation with the commission where such consultation is necessary

Provided further that no power of revision shall be exercised by the Comptroller and Auditor General, Member(Personnel), Postal Services Board, Adviser(Human Resources department), Department of Telecommunications or the Head of Department as the case maybe unless

(i) the authority which made the order in appeal or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him

(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 a where any such appeal has been preferred.

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

"F.R. 54(1) When a Government servant who has been dismissed,removed or compulsorily retired is reinstated as a result of appeal or review or would have been sore instated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the government servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement,as the case may be and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order reinstatement is of opinion that the Government servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government servant shall,subject to the provisions of sub-rule (6) be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or

compulsory retirement, as the case may be:

Provided where such authority is of opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly, attributable to the Government servant it may after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reason to be recorded in writing, that the Government servant shall subject to the provisions of sub rule (7)be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine.

(3) In a case falling under sub rule (2),the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

(4) In cases other than those covered by sub rule (2)(including cases where the order of dismissal,removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of Clause(1) or Clause (2) of Article 311 of the Constitution and no further inquiry is proposed to be held the Government servant shall,subject to the provisions of sub rules (5) and (7), be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled, had not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine,after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in the connection within such period(which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice.

(5) In a case falling under sub rule (4), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement,as the case may be,shall not be treated as a period spent on duty,unless the competent authority specifically directs that it shall be treated so for any specified purpose:

Provided that, if the Government servant so desires, such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the Government servant.

NOTE- The order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of-

(a) extraordinary leave in excess of three months in the case of temporary Government servant and

(b) leave of any kind in exceeds of five years in the case of permanent or quasi permanent Government servant.

6) The payment of allowances under sub rule (2) or sub rule (4) shall be subject to all other conditions under which such allowances are admissible.

(7) The amount determined under the proviso to sub rule (2) or under sub rule (4) shall not be less than the subsistence allowance and other allowances admissible under Rule 53.

(8) Any payment made under this rule to Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal,dismissal or compulsory retirement as the case may be, and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the Government servant."

13 In the impugned order, Annexure A-7 dated 22.6.2005 it is made clear by the third respondent that it has been issued under sub rule (vi) of Rule 29(1). The respondents have enclosed Annexure R-6 notification conferring the power under clause (vi) of sub rule (1) of Rule 29 on the Postmaster General or the Chief Postmaster General as the revising authority for the purpose of exercising the powers under the said Rule 29. Hence the order has been issued by a competent authority. A dispute has been raised as to within what time this power can be exercised. Clause (vi) states that it should be within such time as may be prescribed

in such general or special order. No time limit has been fixed in Annexure R-6 order mentioned above empowering the authority or in any other order or instructions by the Government. The applicant has contended that the time limit of six months laid down in sub clause (v) of Rule 29(1) should apply to the authority exercising the revision power under clause (vi) also as clause (vi) is an extension of clause (v). This contention is not acceptable as clauses (v) and (vi) are distinct and different to be exercised by different authorities. Whereas six months has been prescribed in the Rule itself under clause (v), the time limit to be fixed under clause (vi) has been left to the authority. Admittedly no such time limit has been prescribed. The respondents have argued that the authorities mentioned in sub clause (i) to (vi) in Rule 29 can exercise suo motu powers at any time by virtue of the rule itself. The applicant has enclosed Annexure A-8 clarification dated 23.1.1992 referring to the instructions of DGP&T dated 12.1.1973 regarding submission of revision petition to the revising authority without submission of an appeal and the said letter dated 12.1.1973 from Swamy's Compilation of CCS (CCA) Rules under Govt. of India Instructions No. 4 is extracted as under:

> (4) Submission of revision petition to the revising authority without submission of an appeal- References have been received seeking clarification whether a "petition" can be preferred for a revision of a punishment order without submitting an "appeal". Clarification on certain other points regarding interpretation of Rule 29 of the CCS (CCA) Rules 1965, has also been sought for. The matter has been

considered and the following clarifications are given:-

(i) An employee may prefer a revision petition to the Revising Authority without submitting an appeal. If the Revising authority to whom the revision petition has been preferred is the Appellate Authority, the revision petition should be submitted well before six months of the date of the order sought to be revised so that the Appellate Authority can decide to revise the case within six months under Rule 29(1)(v) of CCS (CCA) Rules, 1965. In so far as a petition for revision to the P&T Board/President is concerned, though CCS (CCA) Rules, 1965 do not lay down any time limit, it would be advisable to prefer such petitions within six months of the date of the order sought to be revised.

In view, however, of the provision of Rule 29 (2) of the CCS (CCA) Rules, 1965, the Revising Authority can take up the petition for consideration only after the period of limitation for an appeal has expired.

(ii) The CCS(CCA) Rules, 1965, do not lay down any time limit for submission of a petition for revision to the P &T Board/President. In case petitions are not submitted sufficiently early, it would undoubtedly be difficult for such reasons as non-availability of records, to deal with the petitions preferred. Therefore, as a working arrangement, it would be advisable that such petitions are preferred within six months on the analogy of the petition preferred on other matters submitted to the President for which the time limit of six months has been prescribed, vide Instruction No. (6)(2) of petition instructions. It may be noted,however, that even where time limits have been laid down,the Competent authorities, in many cases have discretion to waive the limits for good and sufficient reasons.

(iii)The authority competent to conduct a revision should personally issue the reply to the petition of revision unless delegation to a lower authority has been made, in which case the latter authority would be competent to furnish a reply to the petitioner.

14 From sub para (ii) it is clear that CCS (CCA) Rules do not prescribe any time limit for submission of revision petition even to the P& T Board/President. However, it is stated that it is advisable if such petitions are preferred within six months on the analogy of petitions preferred in other matters. It is also mentioned that even if time limit has been laid down, the competent authority has discretion to waive such limits for good and sufficient reasons. It is clear from the reading of the instructions that these instructions do not prescribe any limitation of period for the taking up a revision under Rule 29 and even though six months period has been referred to in sub para (ii) of the Instructions, it refers to a situation where the employee prefers a revision petition to the revising authority without submitting an appeal in which case the revising authority has to wait for six months for taking up the revision only after the appeal time has expired. These instructions therefore generally are intended for employees who have been given the time limit of six months to be observed generally with a discretion to relax these limit for good and sufficient reasons. The instructions in Annexure A-8 contemplate a situation of further extending this time limit even upto five years in genuine cases supported by concrete evidence.

15 To sum up, these instructions by no means impose a limitation period of six months on the revising authority for exercising suo motu power vested with them under sub clause (vi) of Rule 29. In

fact, in the present case no appeal was preferable by the applicant as he had been exonerated from all charges. There would be no need for the applicant to prefer an appeal or the revising authority to wait for the time for submission of the appeal to elapse. Therefore this contention of the learned counsel for the applicant that suo motu revision should have been done within a period of six months has to be rejected.

16 The next contention of the learned counsel of the applicant was that the impugned order at Annexure A-11 is also void for the reason that the applicant was not under suspension and the pay and allowances for the period between the date of compulsory retirement and the date of reinstatement should not have been restricted to subsistence allowance. We have extracted FR 54 above, the rule itself enjoins that when a government servant who has been dismissed/removed/compulsorily retired has been reinstated, the authority competent to order reinstatement has to consider and make a specific order regarding the pay and allowances to be paid to the government servant for the absence from duty or the said period should be treated as period spent on duty. Since it has to be under separate order and not to be combined with the order passed under Rule 29 of the CCS(CCA) Rules, the respondents rightly issued two different orders one under Rule 29 and the other under FR 54. By Annexure A-7, the appellate order is modified to impose a punishment though a minor

one, in terms of sub rule (4) of Rule 54, the Government servant can be paid only "such amount of the pay and allowances (not being the whole) to which he would have been entitled had he been not dismissed /removed or compulsorily retired." In accordance with this rule, the applicant was not entitled to the full salary which he had been drawing for the period since a penalty has been imposed, the quantum payable is left to the discretion of the competent authority. Here, it should be highlighted that the quantum should not be less than the subsistence allowance and perhaps due to this provision, the words "restricted to subsistence allowance" has been used in the impugned order at Annexure A-11. The respondents have averred that the best terms applicable have been given to the applicant and that it has been ordered that he be paid subsistence allowance/pension whichever is beneficial to him. Hence from this point of view of the rules the action of the respondents cannot be faulted.

17 The applicant has also pointed out that the order under FR 54 should have been issued within sixty days of receipt of notice by the applicant. From the wording of the rule particularly i.e. sub rule (4) of FR 54 would show that the sixty days stipulated is for the government servant for submitting the representation to the notice given and is not a bar imposed on the authority passing the order. Thus, this argument is also to be rejected.

18 The rule position be that as it may, the learned counsel of the applicant finally submitted that even if it is considered that the rule position empowers the revising authority to conduct suo motu revision" at any time, the legal question arises whether in the absence of any specific limitation thus prescribed, whether the power of revision/review should not be exercised within a reasonable period and what would be the length of that reasonable time in such cases. He cited the decision in Mahadeo Prasad Gautam vs. Regional Manager, Food Corporation of India (1986 (10) SLR 306) in the judgment of the Madhya Pradesh High Court wherein this same question came up for consideration. It has been has held that even when there is no period of limitation prescribed, the same must be exercised "within a reasonable time" and any contrary view would confer arbitrary power and what is "reasonable" is a question of fact in each case. Para 10 of the judgment reads as under:

> "10 The principle discernible from these decisions is that even where there is no period of limitation prescribed for exercise of the power, the same must be exercised within a reasonable time, which is a question of a fact in each case, depending on the facts of the case and nature of order. This principle by now is even more deeply entrenched in our legal system. A contrary view would confer arbitrary power which can be exercised at the whim and caprice of the authority, unbridled and untrammelled by any consideration of reasonableness of its exercise even long after the transaction and it is incidents are concluded events. Arbitrariness is the negation of law and offends Article 14 of the Constitution. The contrary view would also therefore,violate Article 14. This is an additional reason for us to extend the above principle and to apply it for the purpose of taking the view that the power of review conferred by regulation 74, though untrammelled can be exercised within a reasonable time and not after the expiry

thereto. What is a reasonable time is a question of fact in each case."

19 Therefore the only question now remains to be considered applying the above legal principle is whether the exercise of the power of revision in the present case was within a reasonable time. In the case cited by the learned counsel of the applicant, the power of review under an analogous Rule to Rule 29 or CCS (CCA) Rules was under challenge whereas in the instant case it is the power of revision that is under challenge. The delay that had occurred in the case of the applicant in the case cited was about three years and the applicant therein in the meantime had enjoyed promotion also. In the present case, the alleged incident took place as far back as 1996, the appellate order was issued on 8.12.2003, fully exonerating the applicant of all the charges and reinstating him in service and also counting the period of absence from duty consequent on the penalty order as period spent on duty and entitling him to full pay and allowance. The applicant was reinstated and also received full pay and allowances and according to him he utilised the same for repaying the debts. The applicant retired on superannuation on 31.7.2007 during the pendency of the O.A. The revision order was passed after expiry of 14 months on 22.6.2005 imposing the penalty of reduction in the pay by three stages, the reduction of his pay to be effective from the date of order for a period of two years, which would amount to the penalty

being current till his retirement. The applicant thus is faced with the consequence of repayment of the full pay drawn by him equivalent to 18 months. Considering these factors the revision order issued after 14 months under Rule 29 can be said to be "unreasonable". Also we take note of the fact that the respondents have not been able to give any sufficient/ genuine reason for the delay. As already observed above, the applicant having got a favourable order from the appellate authority could not be expected to come with a revision petition on his own and therefore the respondents were free to take up the revision immediately after the appellate orders were passed and they need not have waited for 14 months, by which time the applicant had also received the consequential benefits of his exoneration. It is also seen from the DPC proceedings annexed with the additional reply statement of the respondents (Annexure R-4) that the applicant despite his long service has not been recommended for promotion due to the currency of the punishment. In the light of the above facts and circumstances of the case we are of the view that this contention of the learned counsel of the applicant that an arbitrary exercise of power will offend Article 14 of the Constitution, has to be given due consideration and the principle as evolved by the Court of law that the power of revision/review though untrammelled can be exercised only within a reasonable time and the time we hold that the taken in this case was unwarranted and unreasonable.

20 In the result, following the judgment referred to above and in the interest of equitable principles of justice, we consider that the impugned order in Annexure A-7 is liable to be quashed. We do so accordingly. Since the impugned order at Annexure A-11 is consequential to the order in Annexure A-7, it would have no independent existence as such, Annexure A-11 is also quashed. The respondents are directed to grant the applicant all the benefits of the Annexure A-2 order of the Appellate authority. The O.A. is allowed as above. No costs.

Dated 15.10.07.

GEORGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

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