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CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

.....

Review Petition No. 539 of 1990 (1)

IN

Registration O.A. No. 90 of 1989 (1)

S.C. Agrawal. ... .. Applicant.

Versus

Union of India and others ... .. Respondents.

Hon'ble Mr. Justice K. Nath, V.C.

Hon'ble Mr. K. Chayya, A.M.

( By Hon'ble Mr. K. Chayya, A.M.)

This review petition arises on the order and judgment dated 9.8.1990 in O.A. No. 90 of 1989 (1) S.C. Agrawal Vs. Union of India and others.

2. The applicant was an employee of the Northern Railway, Lucknow. He was proceeded with departmentally on a minor charge and awarded punishment of withholding of increments for a period of 2 years by order dated 31.12.1987. The applicant preferred an appeal which was rejected on the ground that it was not preferred within time.

3. Aggrieved by the punishment as also the appellate ~~orders~~ orders, the applicant had moved O.A. No. 90 of 1989 alleging that the enquiry was not held in the case and that imposition of punishment was inviolation of the principles of natural justice. He also contended that the punishment will run beyond the date of superannuation i.e. 31.10.1990 as such, the enquiry was necessary in such cases but he was awarded punishment without any enquiry.

4. On behalf of the respondents, it was contended that the charge was for minor penalty and no enquiry was

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necessary and that the punishment has already been implemented and that the punishment order was served on the applicant and in any case, the applicant has preferred an appeal which he could not have done unless he was aware of the punishment and that he did <sup>not</sup> take up the plea that a copy of the punishment order was not served on him.

5. After considering the matter, we have dismissed the application as without any merit.

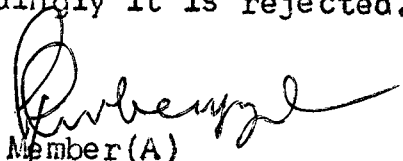
6. In this review petition, it is stated that in our order, there is error of fact and law. It is stated that we have presumed ~~our~~ knowledge of ~~the~~ punishment on the part of the applicant, though, the punishment order was not served on the applicant as laid down in the statutory Rules. It is also stated that we have not taken into consideration that the period of punishment will affect the pension of the applicant, as such enquiry was necessary in the disciplinary matter. It is also mentioned that in calculation of punishment period (para-7) we have made an error.

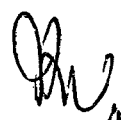
7. We have considered the averments in the review petition. We have carefully examined our order in the main petition dated 9.8.1990. The grounds raised in the review petition are similar to the grounds raised in the main petition. We have discussed the merits of the case in paras 6,7,8 & 9 of our judgment. Admittedly, the charge was for minor penalty and no enquiry is called for in such matters. The disciplinary authority proceeded to impose penalty after considering the representation of the applicant. This is in accordance with the Railway Servants (Discipline & Appeal) Rules, 1968. Regarding non service of the punishment order, in para-9 we have discussed the entire issue and held that the applicant was aware of the punishment or else, he would not have preferred an appeal.

It was also observed that there were two or three disciplinary matters in which the applicant was punished. Some of these punishments were either reduced or set aside by appellate authorities. The order of punishment was awarded on 3.12.1987 and increments which fell due on 1.1.1988 and 1.1.1989 were withheld. The respondents had also stated that the punishment order had also been implemented. The applicant's retirement was on 31.10.1990 and the punishment order had been implemented well before the retirement of the applicant.

8. Regarding the quantum of punishment, we <sup>2</sup>held that the Tribunal can not go into that aspect.

9. For reasons stated above, we do not see that there is any error of either fact or law in our order dated 9.8.1990. We are of the view that there is no merit in the review petition and accordingly it is rejected.

  
Member (A)

  
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Vice-Chairman

Dated: 4<sup>th</sup> September, 1991.  
(n.u.)