

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

T.A. 622/86
(SBCW 1163/84)

Date of decision : 1.2.93

HAR SAHAI SHARMA

... Applicant.

Mr. P.V. Calla

... Counsel for the applicant.

V
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UNION OF INDIA & ORS.

... Respondents.

Mr. V.S. Gurjar

... Counsel for the respondents

CORAM :-

The Hon'ble Mr. Justice D.L. Mehta, Vice Chairman.
The Hon'ble Mr. B.B. Mahaja, Admn. Member.

PER HON'BLE MR. B.B. MAHAJAN, ADMN. MEMBER :-

The applicant had filed a writ petition in the Rajasthan High Court against the order of compulsory retirement by the Revisional Authority dated 28.7.84. The implementation of the order was stayed by the Hon'ble High Court vide order dated 31.8.1984. In pursuance of that order, the applicant had continued to remain in service. The writ petition subsequently has been transferred to the Tribunal U/s 29 of the Administrative Tribunals Act, 1985.

2. Disciplinary proceedings were initiated against the applicant with the imputation that while submitting his application for appointment in the P & T Department, he attached copies of fake certificates and marksheets, showing higher percentage of marks and fake certificate of Secondary School showing wrong date of birth on the basis of which he was selected. An enquiry was held into these charges. The Enquiry Officer held the charges as having been proved. The Disciplinary

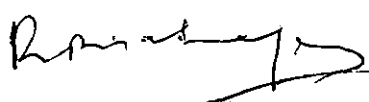
Authority, after taking the Enquiry Report into consideration, awarded the punishment of stoppage of increments for a period of two years with cumulative effect on 2.4.79. The applicant did not file any appeal or revision against this order. The Member (Administration), P & T Board, however, issued on 28.1.84 a suo moto show cause notice (Annexure 2 to the writ petition) under Rule 29 of CCS (CCA) Rules, 1965 as to why the punishment should not be enhanced to that of dismissal from service. The applicant submitted the reply to the show-cause notice on 8.3.84. Thereafter, the impugned order was passed on 28.7.84 imposing the punishment of compulsory retirement.

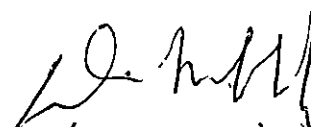
3. We have heard the learned counsel for the parties.

4. Under Rule 29 of the CCS (CCA) Rules, 1965, the Revisional Authority which includes the Member (Personnel) Postal Services Board may at any time, either on his or ~~any~~ its own motion or otherwise call for the records of any inquiry and revise any order made under these rules. The learned counsel for the applicant has argued that the words "at any time" does not mean that the Revising Authority can exercise his power of revision so as to enhance the penalty to an employee after an inordinate delay. He has referred to the Judgment of the Hyderabad Bench of the Tribunal in T. Raji Reddy Vs Union of India & Others, 1992 (1) (CAT) SLJ 249 where it was held that the power vested in the Revising Authority under Rule 29 of the above Rules is not an absolute power to be exercised at the will of the competent authority at any time but must be exercised within a reasonable time. If the delay is properly explained or in cases where the employee has not yet served out the punishment then the delay cannot be a reason for setting at nought the revision proceedings. But the delay must be duly explained and satisfy the

test of reasonableness. It referred to the Judgment of the Hon'ble Supreme Court in New Delhi Municipality Vs. L.I.C. of India (A.I.R. 1977 SC 2134) where it was held with reference to the provisions of Section 67 of the Punjab Municipal Act, 1911 that "it may be assumed that the power ought to be exercised within a reasonable time since the use of expression of wide amplitude like, "at any time" does not exclude the concept of reasonableness.". The learned counsel for the respondents has not been able to show any authority to the contrary. We, therefore, hold that the delay of more than 5 years after the order of the Disciplinary Authority in re-opening of the case and enhancing the punishment which has not been explained by the respondents in their reply, does not pass the test of reasonableness.

5. We accordingly allow this T.A. and set aside the impugned order dated 28.7.84 with no orders as to costs.


(B.B. MAHAJAN)
Admn. Member.


(D.L. MEHTA)
Vice Chairman.

Shashi/