

Central Administrative Tribunal, Jabalpur Bench

O.A. No. 47 of 2005

Jabalpur this the 5th day of April, 2006

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Dr. G.C. Srivastava, Vice Chairman (A)

Veer Singh
S/o Shri Sunderla
Aged about 52 years
R/o Quarter No.303-H, RB-I,
Railway Colony,
New Yard,
Itarsi,
District Hoshangabad (MP).Applicant

By Advocate: Shri V. Tripathi.

Vesus

1. Union of India through
General Manager,
West Central Railway,
Near Indira Market,
Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Bhopal Division,
Bhopal.
3. Chemist & Metallurgist (Diesel),
West Central Railway,
Itarsi (MP).Respondents

By Advocate: Shri S.S. Gupta.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicant had filed this OA assailing the order of the disciplinary authority dated 29.11.2000 (Annexure A-1) whereby he has been imposed the penalty of reduction to the lower grade of Rs.2550-3200/- fixing his pay at the minimum of the said scale. The disciplinary proceedings were initiated against him for major penalty under Rule 9 of the Railway Servants (Disciplinary and Appeal) Rules, 1968 (Rules 1968).

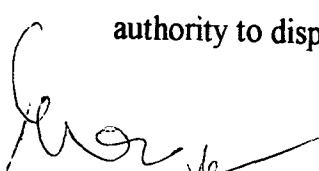
2. At the hearing it is clearly admitted by the learned counsel for the applicant that the applicant has not filed any appeal against the order of the disciplinary authority. But he has submitted a representation to the General Manager on 30th October, 2003 in the form of revision/representation, which has not yet been decided. He has further submitted

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* that there is no limitation provided for exercising revisional powers by the General Manager of the Railway, so the present OA has been filed within the time prescribed under Section 21 read with Section 20 of the Administrative Tribunals Act, 1985. It is also stated that the order of the disciplinary authority is not otherwise sustainable on merit.

3. The learned counsel for the respondents, on the other hand, has raised preliminary objections, firstly that statutory remedy of appeal which was available to the applicant has not been exhausted in the present case and; secondly that the present OA which is filed on 23rd December, 2004 challenging the order which was passed on 29th November, 2000 is beyond the period prescribed for filing appeal. He further submitted that representation which the applicant had submitted as revision was even otherwise addressed to the General Manager Railway and that as per rules the Divisional Railway Manager is the competent authority as such the revision was filed before the authority higher than the authority competent to decide the same. It is also submitted that a bare look at the signature of the applicant on the disciplinary proceeding record on the one hand, and the signature of the applicant appearing on the representation Annexure A-2 on the other hand will show that the signature on the revision is not the genuine signature of the applicant. So action is warranted against the applicant for submitting document which did not bear his signature.

4. During the hearing it was suggested that without delving into the objection of the respondents the present OA may be disposed off at this stage with a direction to the General Manager, and if he is not the competent authority, the authority which is competent to exercise the revisional jurisdiction under Rules of 1968 to decide all these question of limitation, jurisdiction and the signatures of the applicant on the representation while deciding the representation. The questions which have been raised by the applicant and the respondents may be gone into and be decided by the revisional authority while deciding the revision petition of the applicant. The representation (revision) has been addressed to the authority who is competent under the rules to exercise the revisional jurisdiction. The learned counsel for the parties have agreed to this and submitted that the OA can be disposed off by giving directions to the revisional authority to dispose of the revision of the applicant.



5. Accordingly, we dispose of the present OA with a direction to the General Manager of the respondent Railways, that either he himself or through an officer subordinate to him who is competent to exercise the revisional jurisdiction under Rule 25 of the Rules 1968, shall dispose of the representation/revision of the applicant dated 30.10.2003 (Annexure A-2) after considering all legal and factual questions which have been raised by the parties in the OA or in the counter-reply like limitation, jurisdiction and the dispute about signature of the applicant on the representation and even the merit of the case and all other relevant questions. The order will be implemented by the competent authority within a period of three months from the date of receipt of copy of the order by the General Manager of the respondents.

7. With the above directions, the OA is disposed off. There shall be no order as to costs.

Girish
(Dr. G.C. Srivastava)
Vice Chairman (A)

M.A. Khan
(M.A. Khan)
Vice Chairman (J)

Rakesh

फैसले सं ओ/न्या..... जल्दपुर, दि.....
पतिलिखि आव्यो डिक्टिः -

(1) सचिव, उच्च न्यायालय वार एसोसिएशन, जल्दपुर
(2) आविदक: श्री/श्रीमती/द्वा. दा: चाउसल
(3) प्रत्यर्थी श्री/श्रीमती/द्वा. दा: चाउसल
(4) व्येष्याल, रोपन, जल्दपुर न्यायालय
सूचना एवं आवश्यक कार्यवाही द्वा.

V-Tripathi AD238

J.J. - Gupta
AD237

13/6/06
उप राज्यसभा

13.6.06