

Central Administrative Tribunal
Jabalpur Bench

OA No.778/04

Indore, this the 17th day of August, 2005.

C O R A M

Hon'ble Mr. M.P.Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

H.R.Ahirwar
S/o Shri R.D.Ahirwar
R/o Near Railway Station
Masjid Line
Ramnagar
Betul.

Applicant.

(By advocate Shri Sanjay Yadav)

Versus

1. Union of India through
General Manager
Central Railway
CST Mumbai

2. Divisional Railway Manager
Central Railway
Nagpur Division
Nagpur.

Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to quash the orders of punishment passed by the disciplinary authority and the appellate authority.

2. The brief facts of the case are that the applicant while working as a Train Ticket Examiner at Amla under Central Railway was issued a charge sheet dated 3.8.98. He denied the charges. Relevant documents were not supplied to the applicant. Not satisfied with the



reply, the disciplinary authority imposed on the applicant the punishment of removal from service vide order dated 1.1.2000 (Annexure A4). On appeal, the respondent converted the punishment of removal to that of compulsory retirement (Annexure A6). Aggrieved, the applicant has filed this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the charges of misconduct were not proved in the departmental enquiry. The enquiry officer had submitted his report in favour of the applicant. The disciplinary authority had inflicted the punishment of removal from service on the applicant by the impugned order without any evidence on record. Even though the punishment of removal was converted into that of compulsory retirement by the appellate authority, as there was no evidence on record against the applicant, the applicant should not have been punished in any way. The learned counsel further argued that the same allegation was levelled against a co-employee one A.K.Mishra, who has filed a W.P.No.1827/2003 before the Hon'ble High Court and the said WP was decided vide order-dated 10.12.2003. The High Court had converted the sentence of compulsory retirement into that of withholding of 3 increments with cumulative effect. The allegation against the applicant was exactly similar to that of A.K.Mishra. Hence the applicant is entitled for similar treatment.

4. In reply, learned counsel for the respondents argued that the appellate authority had taken a sympathetic view and converted the punishment of removal from service to that of compulsory retirement. The applicant had accepted the punishment of compulsory retirement and accepted the settlement dues and pension. Therefore he is estopped from pleading against the merit of departmental enquiry. As the applicant is challenging the order-dated 15.3.2000, the OA is barred by limitation.

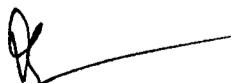
5. After hearing the learned counsel for both parties and perusing the records, we find that the applicant has filed the present OA more than 4 years after the impugned order dated 13.3.2000 (Annexure A5)



passed by the appellate authority and he has not moved any application for condonation of delay. He could not show any reason for condonation of delay. The respondents have mentioned in their return that the applicant has accepted the punishment of compulsory retirement and he has also accepted the settlement dues and pension for the last 4 years. Hence he is estopped from pleading against the same. We have perused (1992) 21 ATC 675 Vol.21- Bhoop Singh Vs. Union of India and others, decided on April 29, 1992 in which the Hon'ble Supreme Court has held as under:

"Relief – Laches – Reinstatement – Claim of – Mass termination of service of agitating police constables – Subsequently some of them reinstated in service – Some others thereupon promptly filing petitions before High Court/Tribunal and obtaining orders quashing their termination and consequential relief of reinstatement – Appellant filing petition before Tribunal 22 years after termination of his service claiming relief of reinstatement on ground of discriminatory treatment in granting the same relief to his co-employees – Relief refused by Tribunal on ground of laches – Held, in absence of any convincing explanation such highly belated claim rightly rejected by Tribunal – Ground of discrimination consequent upon refusal to grant the relief cannot stand where the claimant himself is indolent unlike his co-employees and therefore cannot be classified with the co-employees since non-discrimination under Art.14 is based on equitable principle – Inordinate and unexplained delay is itself a ground to refuse the relief – Grant of reinstatement after a long lapse of time will have its impact on the administrative set up and other employees – in the circumstances refusal to grant the relief calls for no interference by Supreme Court".

6. In the case of A.K.Mishra, he had filed an OA No.855/2000 which was decided by the Tribunal vide order dated 7th May 2003. Against that order, the Union of India filed the aforesaid WP before the High Court, which was decided on 10.12.2003. Applicant has nowhere stated that his co-employee A.K.Mishra accepted the settlement dues and he was receiving monthly pension for 4 years. Hence the case of the applicant is apparently on a different footing. The applicant has not sought any legal remedy within due time. Hence



the applicant is not entitled to the same relief, which was granted to A.K.Mishra.

7. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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प्रतांकन सं ओ/व्या.....जबलपुर, दि.....

प्रतिक्रिया नाम विवर:-

- (1) सदित. अख. व्या. न. जा. एस. रेतियाना. जबलपुर
- (2) अदेश्वर व्या. व्या. न. जा. एस. रेतियाना के काउंसल
- (3) प्रत्यार्पी व्या. व्या. न. जा. एस. रेतियाना के काउंसल
- (4) ग्रामपाल. टो. व्या. न. जा. एस. रेतियाना डेस्ट्र

S. Madan B/o Off

M. P. Singh B/o

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