

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/447/2018

Date of decision: 21.5.2019

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Naresh Sharma, age 61 years, Chief Office Superintendent Commercial (Retd.), Northern Railway, Ferozepur, presently resident of House No.39, Gali No.7, Near Triveni Chowk, Ferozepur (Cantt.)-152001. Group C.

... APPLICANT

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, North Block, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ferozepur Division, Ferozepur.
3. Senior Divisional Commercial Manager, Northern Railway, Ferozepur.

... RESPONDENTS

PRESENT: Sh. Deepak Agarwal, counsel for the applicant
Sh. Sanjay Goyal, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. The applicant is before this Court challenging the illegality and invalidation of order dated 27.3.2018 (Annexure A-1), whereby respondents have reviewed their earlier order dated 22.02.2017, vide which while accepting contention of the applicant against charge sheet, he was inflicted punishment of compulsory retirement.
2. Facts are not in dispute.

3. Applicant who was due for retirement on 28.2.2017, was served with a charge sheet on 22.2.2017 (Annexure A-2) containing certain allegations against which applicant submitted reply on the same very day where he had accepted charge and made a categorical statement that since he is going to retire, therefore, he does not want any departmental inquiry. Based upon his confession, vide order dated 22.2.2017 (Annexure A-3) respondents held him guilty of charges and inflicted the punishment of compulsory retirement from service. That order attained finality as it was not reviewed by authority, as provided under Rule 25 of Railway Servants (Discipline and Appeal) Rules, 1968. On 27.3.2018 i.e. after more than a year, respondents have passed impugned order reopening the case of the applicant and have decided to recall their earlier order of compulsory retirement and to continue with departmental proceedings against which the applicant is before this Court.
4. Learned counsel for the applicant vehemently argued that impugned order is liable to be set aside on several grounds. Firstly, that successor in office does not have power to review order passed by the earlier authority and to this effect for which he placed reliance on judgment in the case of **R.T. Rangachari vs. Secretary of State,** AIR 1937 P.C. 27, where similar point was under consideration and view by the successor in reviewing order of earlier authority has been negated. The relevant part of the same reads as under:-

"In a case in which after Government Officials, duly competent and duly authorised in that behalf have arrived honestly at one decision, their successors in office, after the decision has been acted upon and is in effective operation, cannot purport to enter upon a reconsideration of the matter and to arrive at another and totally different decision."

5. He also placed reliance on judgment in the case of **Sarv Mittar Sharma vs. The Punjab and Haryana High Court**, 1992(102) PLR 53. He further submitted that the impugned order does not sustain on the ground of delay also because order has been reviewed after one year, whereas in terms of Rule 25 of Railway Servants (Discipline and Appeal) Rules, 1968, order passed by Disciplinary Authority or Appellate Authority is to be reviewed within six months from the date of passing of the order. He submitted that even if it is presumed that order is bad, even then also it had to be reviewed within the prescribed time limit. Since more than six months have passed, therefore, order cannot be reviewed.
6. Learned counsel for the respondents submitted that since there is no provision under Rule formation for clubbing of more than one charge sheet and inflicting punishment, therefore, a decision has been taken to recall that order but he is not in position to cite any provision which empowers the successor in office to review order after prescribed time limit and also not in position to cite any law, which empowers the authority to reopen the closed matter.
7. In the wake of the above, I am in agreement with the submission made at the hands of the applicant that impugned order is liable to be set aside firstly on the ground that successor cannot be allowed to change the order that has attained finality that too without any valid reason and secondly on the ground of delay also because even if authority feels that order is bad in law even then that can be rectified/corrected within a prescribed period of six months only. Even if contention of the respondents is accepted that order did not attain finality and they could open case file any time then there would not be

any time limit for reopening of the case and the principle of limitation and finality to things or lis would be defeated which cannot be accepted by a Court of law. .

8. Accordingly, the impugned order is quashed and set aside. The respondents are directed to release retiral benefits of the applicant which they have withheld.
9. The O.A. stands disposed of in the above terms. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 21.5.2019.
Place: Chandigarh.

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