



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/1095/2016

Date of Order: 29.07.2019

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Sri Pratap Ch. Rai, son of Sri S.N. Rai, working as Reservation Supervisor, Sealdah, Eastern Railway, residing at 97, D.C. Rajpath, P.O Shyambazar, Dist. 24-Parganas (North), Pin No. 743127.

--Applicant.

-vs-

1. The Union of India, service through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Kolkata - 700001.
2. The Divisional Railway Manager, Eastern Railway, Sealdah Division, Kolkata 700014.
3. The Additional Divisional Railway Manager, Eastern Railway, Sealdah Division, Sealdah, Kolkata 700014.
4. The Senior Divisional Commercial Manager, Sealdah Division, Eastern Railway, Sealdah, Kolkata 700014.

--Respondents

For The Applicant(s): Mr. N. Roy, counsel

For The Respondent(s): Mr. B. P. Manna, counsel

ORDER (Oral)

Per: Ms. Bidisha Banerjee, Member (J):

The applicant in this O.A has sought for the following reliefs:

- (a) To issue direction upon the respondent to consider the appeal made by the applicant for revocation of punishment of 10 years' withholding increment of the applicant forthwith, for stopping increment Rs. 1320-1350/-.
- (b) To issue further direction upon the respondent to consider the appeal for revocation of punishment forthwith.
- (c) To issue further direction upon the respondent to consider the representation made by the applicant forthwith.
- (d) Any other order/orders as the Learned Tribunal deem fit and proper.
- (e) To produce connected departmental record at the time of hearing.
- (f) To issue further direction upon the respondent to consider revision appeal made by the applicant may be disposed of forthwith."

2. The admitted facts, that could be culled out from the pleadings are thus:

The applicant while working as ECRG was punished on 13.01.1995 with stoppage of annual increment (with cumulative effect) for next 10 (ten) years. As

such, his yearly increment was withheld from 1996 to 2005 (with cumulative effect) and thereafter his pay was regularised. In 2015, after 20 years of imposition of penalty, and 10 years from the date it lost its efficacy, the penalty being already suffered in the meantime, applicant served a legal notice in 2015 demanding revocation of the punishment, which could not be acceded to by the respondents. Thereafter, he preferred an appeal before the DRM/Sealdah for revocation of his punishment order instead of approaching the Reviewing Authority, who is CCM/E.Rly. The appeal was turned down being aggrieved, he has preferred this O.A.

3. Ld. counsel for the applicant at hearing would submit that the O.A is maintainable, as he approached the then Hon'ble State Minister of Indian Railways. He would also draw our attention to a circular dt. 16.03.04 (RBE 28/2004) in regard to the exercise of power of revision in disciplinary cases and tried to implore that in absence of an appeal where no appeal has been preferred, the Appellate Authority can exercise revisionary power in terms of Rule 25(1)(V) and one can approach the revisionary authority where time limit prescribed for revision made by the appellate authority, as laid down in Rule 25 (5) of RSDA Rule, has expired. The Circular is extracted hereunder for clarity:

"Serial No. : 30(3)/2004

No. E 308/o//Vol. XVIII

Kolkata, dated 16th March, 2004

Sub: Revisionary Powers in disciplinary cases.

The following copy of Railway Boards No. E(D&A)2003/RG6-37 dated 13/02/2004 (RBE No. 28/2004. SC No. 1 to M.C No. 67) is appended for information guidance and necessary action.

Copy of Railway Boards letter No. E(D&A)2003/RG6-37 dated 13/02/2004 (RBE No. 28/2004. SC No. 1 to M.C No. 67) addressed to General Managers (P), All Indian Railways and others.

Sub: Revisionary Powers in disciplinary cases.

The provisions regarding revisionary powers in disciplinary cases are contained in Rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968. Doubts in this respect have been raised by various railways from time to time particularly regarding the exercise of revisionary

powers by an appellate authority. The position in regard to Rule 25 is clarified in the succeeding paragraphs.

2. In terms of Rule 25(1)(v), an officer of the rank of Deputy HOD can also exercise revisionary powers, provided he is otherwise competent to conduct revision in the case. Revisionary powers can be exercised both suo-moto or on consideration of a revision petition. However, suo-moto revision can be done subject to the time limits prescribed in Rule 25(5).

2.1. Appellate Authority can also exercise revisionary power when in a case no appeal has been preferred in terms of Rule 25(1) (iv). However, for an appellate authority to exercise revisionary power, this authority has to be of the rank of DRM and above. In other words, an authority upto the rank of ADRM cannot exercise revisionary powers if it happens to be the appellate authority in the case. Revisionary powers will be exercised by the appellate authority only for conducting suo-moto revision. The time limits laid down in Rule 25(5) also apply in cases of revision done by the appellate authorities.

3. The provision of para 20(d) in the Master Circular No. 67 may accordingly be read as under:

d) The revising authority has to be higher in rank than the Appellate Authority where:-

- I. An appeal has been preferred; or
- II. Where the time limit prescribed for revision to be made by the Appellate Authority, as laid down in Rule 25(5) of RS(D&A) Rules has expired.

The above stipulation does not apply to the revisions made by President. (Rule 25(4) of RS(D&A) Rules, 1968)."

4. We heard ld. counsels for both parties, perused the materials on record.

5. Having noticed that the applicant has already suffered penalty from 1996-

2005 without demur, and has preferred this application after 10 years, we fail to comprehend how the provision enumerated supra (as in RBE 28/2004) would come to the aid of the applicant as it applies to suo-moto revision and is subject to a time limit. Hence, the O.A is dismissed. No costs.

(Nandita Chatterjee)
Member (A)

ss

(Bidisha Banerjee)
Member (J)