

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.16503 of 2014
Date of Decision: September 25, 2017

Union of India through General Manager Northern Railway, Baroda House,
New Delhi

...Petitioner

Versus

Devinder Pal Singh & another

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Rajiv Sharma, Advocate,
for the petitioners.

Mr.Padamkant Dwivedi, Advocate,
for respondent No.1.

AMIT RAWAL, J.

1. In pursuance to the order dated 21.8.2017, Mr.Kulwant Singh, Divisional Engineer, Ferozepur was present in Court alongwith record and same was perused.

2. The short point involved in the present writ petition is whether enquiry proceedings initiated against respondent No.1 would be deemed to be quashed for not completing the same within the time frame prescribed by the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") while disposing of O.A.No.1266-PB of 2012 vide order dated 2.5.2013 with a caveat that in case of non-conclusion of the enquiry, the charge-sheet served upon respondent No.1 would automatically be quashed.

3. Mr.Rajiv Sharma, learned counsel for the petitioners submitted

that in October, 1971, respondent No.1 was appointed as Assistant Permanent Inspector at Ferozepur Division, Northern Railway. In the year 2008, i.e., on 9.4.2008, while working as Senior Section Engineer (P-Way), i.e., SSE/P-WAY/FZR at Ferozepur, applicant committed serious illegalities. Accordingly, he was charge-sheeted by serving the following charges:-

“a) Splitting the requirements of “L-Xing Speed Breaker Marker/Road Pavement Marker” in 19 indents keeping value of each indent below Rs.2 lacs deliberately so that the tenders are dealt at a particular level and to avoid issue of advertised tender.

b) The 19 indents so prepared as also the bills submitted by the firm for payment had hand written on top “Jai Mata Di” by one and the same person as opined by GQED establishes his collusion with the firm at indenting stage....”

4. Applicant-respondent No.1 challenged the aforementioned charge-sheet before the Central Administrative Tribunal vide O.A.No.1266 (PB) of 2012 and vide order dated 2.5.2013, the same was disposed of by the CAT granting one final opportunity to the Competent Authority to conclude the departmental proceedings within one month from 2.5.2013 and in case of non-conclusion, the proceedings shall stand quashed. According to the learned counsel, in fact, the aforementioned direction ought to have been one month from the date of receipt of certified copy of the order. The aforementioned order was sought to be reviewed by Review Application No.59/2013 seeking three months' time to conclude the departmental proceedings, but vide order dated 8.1.2014 (Annexure P-6), the same was

dismissed, which is also under challenge.

5. It was next contended that the CAT did not consider the detailed facts explained in the application seeking review for not completing the enquiry within the stipulated time. The copy of the order dated 2.5.2013 was received on 17.6.2013 and the information required by Railway Board, i.e., original D&AR case file of D.P.Singh was sent to the Railway Board on 29.5.2013. There were summer vacations and the application for review was filed on 19.7.2013. The gist of the detail, i.e., steps taken after culmination of enquiry given in the written statement, was also part and parcel of the application, but the same was not adhered to. Applicant-respondent No.1 has been imposed a penalty of 20% cut in the monthly pension for a period of three years and the order has been communicated. Respondent No.1 has a separate cause of action to challenge the same.

6. Per contra, Ms.Padamkant Dwivedi, learned counsel for respondent No.1 has drawn the attention of this Court to the contents of Para 4 of the application seeking review of the order as no explanation had been furnished in not taking any effective steps from 17.6.2013 till opening of the CAT after summer vacations, which opened in the first week of July, 2013. Even the certified copy of the order was prepared by the Registry on 29.5.2013. Nothing prevented the department to move an application seeking extension of time and, thus, departmental proceedings initiated in pursuance to the service of the charge-sheet, the enquiry report and imposition of penalty deemed to be quashed. The department had been delaying the culmination of the enquiry proceedings on many occasions. It is in this backdrop of the matter, the CAT granted one month time and, thus, urged this Court for upholding of the orders under challenge.

7. We have heard the learned counsel for the parties, appraised the paper book and are of the view that the Tribunal ought to have given one month time from the date of receipt of certified copy of the order dated 2.5.2013, which was received by the petitioner on 17.6.2013. The averment of receipt of certified copy of the order on 17.6.2013 has not been controverted. The events which had taken place after the passing of the order by the CAT, extracted in the writ petition, are reproduced herein below:-

<i>Dates</i>	<i>Events</i>
29.05.13	<i>The information required by Railway Board i.e. original D & AR case file of Shri D.P.Singh was sent to the Railway Board by HQ of Northern Railway, Baroda House, New Delhi.</i>
17.06.13	<i>Copy of order dated 02.05.13 was received.</i>
25.06.13	<i>Headquarters was informed for approaching the CAT for extension of time.</i>
03/07/13	<i>Headquarter asked the Division to supply some documents relating Shri D.P.Singh.</i>
19.07.13	<i>The Railway Administration has filed Review application No.59/2013 for review o the order dated 02.05.13.</i>
23.07.13	<i>The HQ apprised the order passed by the CAT with request to obtain approval of the President for cut in pension.</i>
26.07.13	<i>Review Application was listed before the CAT in which the Hon'ble CAT was pleased to issue the notice to the opposite party and listed the case on 26.09.13.</i>
31.07.13	<i>The Railway Board informed HQ of NR that the President after considering the Disciplinary case of Shri D.P.Singh has referred the same to the UPSC for their advice.</i>
02/08/13	<i>HQ informed Railway Board for filing the Review application.</i>
26.09.13	<i>The Review application was adjourned to 29.10.13.</i>
04/10/13	<i>The UPSC has conveyed the advice of Commission to the Railway Board.</i>
23.10.13	<i>The Railway Board on advice of UPSC has passed the order imposing 20% cut in monthly pension for a period of 3 (three) years.</i>
25.10.13	<i>The HQ informed the Divisional Office for passing of order dated 04.10.13 & 23.10.13.</i>
29.10.13	<i>Review adjourned to 16.12.13.</i>
27.11.13	<i>The order of the Railway Board received through HQ was conveyed to Shri D.P.Singh through the Registered letter.</i>

<i>Dates</i>	<i>Events</i>
16.12.13	<i>Order of the CAT on review application was reserved.</i>
08/01/14	<i>Order passed by the CAT rejecting review application filed by the Railway administration.</i>

8. The department had given due explanation for not completing the enquiry within the time frame. Even review application had been dismissed without noticing the aforementioned fact, whereas extension was required to be granted.

9. Admittedly, Mr.Rajiv Sharma, learned counsel for the petitioners has apprised this Court that the Enquiry Officer had completed the enquiry vide his report dated 14.7.2010 by establishing only charge No.1, whereas charge No.2 was not established. The same was placed before the Punishing Authority and the Executive Director, vide order dated 23.10.2013, agreed with the enquiry report and ordered for imposition of major penalty of 20% cut in the monthly pension for a period of three years and the same had been communicated to the applicant-respondent No.1 vide registered letter dated 27.11.2013.

10. Under the circumstances, in our view, CAT was required to ponder on the issue aforementioned in a pragmatic manner. Resultantly, the order of the CAT is modified and one month time in the order of CAT dated 2.5.2013 would commence from the date of receipt of certified copy of the order, i.e., 17.6.2013 and the application for review having been filed on 19.7.2013 due to vacations in between was not correctly rejected.

10. Owing to the aforementioned observations of modification in the order, we give liberty to the applicant to challenge the order dated 23.10.2013, whereby major penalty of 20% cut in the monthly pension has been ordered, within two months from the date of receipt of certified copy

of the present order in accordance with law.

11. With the aforementioned modification in the order of the CAT,
writ petition stands allowed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**September 25, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No