

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1182 OF 2022

Peter Callegghan Alexander Garwin,
aged 59 years, Ex-Inspector, RPF,
R/o Anant Apartment, Flat No.5/3,
Plot No.68, Khare Town, Dharampeth,
Nagpur 440010

... Petitioner

-vs-

1. Central Government/Revisionary Authority,
Through, the Minister of State for Railways,
Rail Bhawan, New Delhi 110001
2. Principal, Training Centre, Nasik,
Central Railway, Samangao Road,
Nasik-422101
3. Divisional Security Commissioner,
DRM Office, Central Railway,
Solapur 413001
4. Principal Chief Security Commissioner,
Central Railway, 3rd Floor, Parcel Office
Building, RPF Headquarter,
Mumbai CSTM-400001
5. Director General, Railway Protection
Force, Rail Mantralaya, Railway Board,
Rail Bhawan, New Delhi 110 001

... Respondents

Shri B. Lahiri, Advocate for petitioner.

Shri N. S. Deshpande, Assistant Solicitor General of India for respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : August 17, 2022

Oral Judgment : (Per A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the
learned counsel for the parties.

The petitioner was engaged with respondent No.4 on the post of Inspector. During the course of service departmental proceedings were held and on conclusion thereof, an order of dismissal dated 23/07/2019 came to be passed by the Principal Chief Security Commissioner, Railway Protection Force, Central Railway. The appeal preferred by the petitioner challenging that order came to be dismissed on 24/10/2019. Being aggrieved the petitioner had challenged the said order in Writ Petition No.732/2020. The respondents raised an objection that remedy of revision under Rule 219 of the Railway Protection Force Rules, 1987 (for short, the said Rules) was available and the petitioner ought to invoke the same. Accordingly on 28/07/2021 this Court disposed of the writ petition by issuing the following directions :

“ We, therefore dispose of this writ petition granting liberty to the petitioner to approach the revisional authority within a fortnight from today. If the petitioner applies for revision before the appropriate revisional authority within the aforesaid time, such revisional application shall be considered on merits and limitation would not stand in the way of such consideration. Since Rule 219 itself provides the time limit within which a revision ought to be disposed of, we hope and trust that the revisional authority shall proceed to dispose of the revision, if filed by the petitioner, within three months from the date of receipt thereof. We make it clear that the petitioner shall be entitled to raise points other than those

which have been recorded above, if available to him in law, in such revision and the revisional authority shall be obliged to consider such points too.”

2. The petitioner thereafter filed revision application under Rule 219 of the said Rules and raised various grounds. By the impugned order dated 12/01/2022 the revision application has been rejected by observing that there was no new facts, reasons or ground for allowing the revision application. Being aggrieved the petitioner has challenged the aforesaid order.

3. After hearing the learned counsel for the parties and after perusing the impugned order as well as reply filed on behalf of the respondents, we find that though the petitioner raised various grounds in the revision application to demonstrate that the appellate order suffered from material irregularity resulting in miscarriage of justice, the grounds raised have not been duly considered. Except for stating that no new facts, reasons or grounds have been found, the revisional authority has not indicated why the grounds raised by the petitioner were not relevant in the context of in any material irregularity. It be noted that as per Rule 219.2 of the said Rules the procedure prescribed for consideration of an appeal under Rule 217 is also applicable to the revision application. Rule 217.3 indicates the matters

to be considered by the appellate authority.

4. Though it is true that scope for interference in revisional jurisdiction is limited, at the same time it is necessary that the revisional authority should at least briefly indicate the reasons why it has found absence of material irregularity in the earlier adjudication that has resulted in miscarriage of justice. The impugned order merely states that no new facts, reasons or ground were found. We find that it is not possible to gather from the impugned order what has weighed with the revisional authority by which it dismissed the revision application. Since the petitioner was granted leave to file revision application and raise all permissible grounds, the revisional authority ought to have indicated brief reasons for refusing to exercise revisional jurisdiction. On this short ground we find that a re-consideration of the revision application is warranted.

5. For aforesaid reasons the following order is passed :

- (i) The order dated 12/01/2022 passed by the revisional authority is set aside. It is directed that the revision application shall be re-considered and decided in accordance with Rule 219 of the Railway Protection Force Rules, 1987 by giving brief reasons for the conclusion to be recorded.

- (ii) It is clarified that this Court has not examined the merits of various grounds raised in the revision application and the revisional authority is free to consider the same in accordance with law.
- (iii) Since the provisions of Rule 220 of the said Rules describe period of three months as a period within which the revision application shall be decided, it is directed that the revisional authority shall decide the same in accordance with the time limit as framed.
- (iv) All points raised in the writ petition are kept open for being raised at appropriate stage.

Rule is made absolute with aforesaid directions. No costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita