

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/186/2020

Hyderabad, this the 28th day of February, 2020



Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

K. Ramesh, S/o. K.D.V. Prasad,
Aged about 44 years, Occ: Peon/ PRs/SC,
Reservation Complex,
South Central Railways, Secunderabad,
R/o. H. No. 6-161, Karrepalli Village,
Singareni Mandal, Khammam District.

... Applicant

(By Advocate: Mr. Ch. Satyanarayana)

Vs.

1. Union of India, Rep. by its
General Manager,
South Central Railways, Rail Nilayam,
3rd Floor, Secunderabad.
2. The Chief Commercial Manager,
South Central Railways,
Rail Nilayam, 1st Floor, Secunderabad.
3. The Commercial Manager, PM/ Marketing,
Reservation Complex,
South Central Railways,
Secunderabad, Secunderabad Division.
4. The Deputy Commercial Manager (ORS)
South Central Railways, Reservation Complex,
1st Floor, Secunderabad.
5. The Chief Operation Manager,
South Central Railways,
Rail Nilayam, Secunderabad Division,
Secunderabad.

... Respondents

(By Advocate: Mrs. A.P. Lakshmi, SC for Railways)

ORDER (ORAL)
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed aggrieved over being compulsorily retired from service by the respondents vide Memo dated 24.01.2020.



3. Applicant, who is physically handicapped, was appointed on 15.11.2003 in the respondents organisation on compassionate grounds as Running Room Cook though he was not supposed to be posted to such a post in view of his physical disability, but later, on approaching the Tribunal in OA 653/2005, he was posted as Peon on 10.07.2006 as prayed for. However, applicant due to ill-health could not attend to duties for some period, which led to initiation of disciplinary proceedings resulting in penalty of withholding of increments for a period of 2 years by the DME on 8.09.2006, which was proposed to be enhanced to that of compulsory retirement by the Additional Divisional Manager vide Memo dated 24.11.2006. Against the proposed penalty of compulsory retirement when OA 771/2006 was filed, the Tribunal, while observing that the OA was filed prematurely, disposed of the same granting liberty to the appellate authority to pass an appropriate order in the matter, if not already passed. Thereafter, applicant, for being absent for a period of 6 months to take treatment on health grounds, was removed from service and when challenged in OA 733/2015, the penalty of removal was set aside vide order dated 26.09.2018, directing the respondents to reinstate the applicant and institute *denovo* inquiry from the stage of appointing Presenting Officer. Accordingly, the applicant was reinstated on 10.12.2018 and on completion

of the denovo inquiry based on the inquiry report received, applicant was compulsorily retired from service on 26.08.2019. Once again, applicant approached the Tribunal by filing OA 932/2019, which was disposed by directing the respondents to dispose of the appeal preferred on 16.09.2019.



Complying with the order of the Tribunal, respondents disposed the appeal by confirming the penalty of compulsory retirement on 24.01.2020 and informing the applicant that he can appeal against the order to the CCM/PM/SC within 45 days of the receipt of the order. Aggrieved over the confirmation of the penalty of compulsory retirement, this OA has been filed.

4. The contentions of the applicant are that he is out of employment for a prolonged period and that he has to support his family and two children, who are pursuing studies in 10th standard and Intermediate. The respondents' action of compulsorily retiring him is illegal and arbitrary and therefore, prayed for setting aside the penalty.

5. Heard both the counsel and perused the pleadings.

6. I) A quick glance of the case reveals that the applicant has filed the OA prematurely since he had time to file the appeal up to 11.03.2020. Ld. counsel for the respondents has pointed out that the applicant is filing OAs without allowing the mandated time for the respondents to take decisions on issues relating to disciplinary action against the applicant. Nevertheless, Ld. counsel for the respondents submitted that the applicant

can prefer an appeal even now against the order of compulsory retirement to the CCM/PM/SC as stated in the impugned order dated 24.01.2020, to which, the Ld. counsel for the applicant has averred that an appeal would be preferred within a week.



II) After hearing both the counsel and on going through the facts of the case, the applicant is granted the liberty to file an appeal within 2 weeks of receipt of this order stating the Rules and law under which he seeks the relief of reinstatement. On receipt of the said appeal, respondents are directed to dispose of the same within 8 weeks from the date of receipt, in accordance with extent rules and in accordance with law, by issuing a speaking and well reasoned order.

III) With the above direction, the OA is disposed of, at the admission stage, without going into the merits of the case. No order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

/evr/