

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.020/00416/2019

Dated this the 10th day of December, 2019.

CORAM:

THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)

Between :

S.Sankaraiah, s/o Srinivasulu,
Aged about 67 yrs, Occ:Retd. Depot Store
Keeper/GC/TPTY (Gr.C), O/o Dy.CE/Gauge
Conversion, South Central Railway,
Tirupathi, r/o D.No.4-10, Payulu Centre,
Yerpedu Mandal, Chittoor District-517 526.Applicant

(By Mrs.S.Anuradha, Counsel for the Applicant)

And

1. Union of India, rep., by the General Manager, South Central Railway, Rail Nilayam, III Floor, Secunderabad-500 071.
2. The Chief Administrative Officer/Construction, South Central Railway, Division Office Compounds, Secunderabad-500 071.
3. The Financial Advisor & Chief Accounts Officer/Construction, South Central Railway, Lekha Bhavan, II Floor, Secunderabad-500 071.
4. The Chief Engineer/Construction, South Central Railway, Division Office Compounds, Secunderabad-500071.
5. The Dy.Chief Engineer, Gauge Conversion, South Central Railway, Tirupathi. Respondents

(By Mr.T.Hanumantha Reddy, SC for Rlys,
Rep., by Mrs.C.Vijaya Laxmi, proxy counsel)

ORDER

By MRS.NAINI JAYASEELAN, MEMBER (ADMN.)

The brief facts of the case:

The applicant while working as Depot Store Keeper in the office of Dy.CE/GC/TPTY, was implicated in Crime No.09/2011 u/s 3 (a) of RP (UP) Act, 1966 by the Railway Protection Force, Anantapur, and was arrested on 25.08.2011 and remanded to judicial custody on 26.08.2011. Based on the intimation made by the IPF/RPF/Anantapur, the applicant was placed under suspension by order dated 29.08.2011 w.e.f., 25.08.2011. The applicant was later released on bail and on appeal against suspension order, his suspension was revoked by order dated 09.03.2012. On attaining the age of superannuation on 31.08.2012, the applicant was served with a charge sheet for imposition of major penalty vide SF-5 No.P.CON/TPTY/DAR/SS, dated 14.03.2012 based on the same set of facts and evidence of the criminal case and the sole document relied upon to prove the charges was the letter dated 27.08.2011 issued by DSC/RPF/GTL intimating the arrest of the applicant by the RPF/ATP. It is the case of the applicant that no witness was cited in the charge sheet to prove the charges. The applicant submitted his reply on 02.04.2012 with a request to drop the charges, but there was no reply.

2. The applicant submitted that he was acquitted in the criminal case, and as he was not being paid his settlement dues, he had filed OA.No.1025/2016 before this Tribunal and this Tribunal vide order dated 18.09.2018 directed the respondents to release the settlement dues of the applicant with interest @ 8% per annum. However, as per the applicant's contention the respondents calculated the pension of the applicant at lesser rate and paid him only an amount of Rs.5 lakhs, whereas he is entitled for Rs.15 lakhs with interest, as ordered by this Tribunal.

3. The prayer of the applicant is to direct the respondents to refix his pension on the basis of his last pay drawn, and pay the arrears of settlement dues along with accrued interest of 8.33%, as ordered by this Tribunal in OA.No.1025/2016 from 01.09.2012.

4. In the reply statement, the respondents' department has stated that at the time of retirement, the applicant was on adhoc promotion and the pension was calculated on the basis of his substantive pay.

5. However, the contention of the learned counsel for the Applicant is that had the applicant been granted promotion on a regular basis, he would

be in a higher substantive pay and, moreover, the denial of promotion on regular basis was on the ground that the criminal case was pending against the applicant. Since the Railway Court, Guntakal, delivered its judgment in C.C.No.20/2013, vide order dated 23.01.2016, wherein the applicant was not found guilty and the major penalty proceedings were dropped against the applicant.

6. Since the respondents' department has not stated in their reply whether on the relevant date of promotion, the applicant was entitled to regular promotion and not adhoc promotion, it is essential that the respondents' department first examine this issue.

7. In view of the above, the learned counsel for the Applicant and the learned counsel for the Respondents agreed to the suggestion that the applicant makes a comprehensive representation to the respondents' department within one month from the date of receipt of a copy of this order and the respondents' department examine the representation and thereafter passes a well reasoned speaking order within two months of the receipt of the representation.

8. The OA is disposed of with the above directions. No order as to costs.

Sd/-
(NAINI JAYASEELAN)
MEMBER (ADMN.)

DSN