



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.No.445/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 10th day of October, 2000

Shri C.L.Batra
s/o Shri Ishwar Dayal Batra
Ex. Assistant Personnel Officer
Rail Coach Factory
Kapurthala (Punjab)
r/o A-94, Amar Colony
Lajpat Nagar-IV
New Delhi - 110 024. Applicant

(By Shri B.S.Mainee, Advocate)

vs.

1. Union of India through
The Secretary
Ministry of Railways
Rail Bhawan
New Delhi.
2. The General Manager
Rail Coach Factory
Kapurthala (Punjab). .. Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R (Oral)

By Shri Govindan S. Tampi, Member(A):

The applicant in this case challenges the orders dated 29.10.1996 communicating Government's displeasure and 23.1.1998 denying the grant of interest on delayed payment of DCRG, on the ground that he had not been completely exonerated.

2. The applicant was working as Assistant Personnel Officer at Rail Coach Factory, Kapurthala when a charge sheet for major penalty was issued to him on 28.3.1990. On his denying the charges, an enquiry was held in which the enquiry officer completely exonerated him of the charges levelled against him. However, without communicating the

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enquiry report the respondents arbitrarily and illegally communicated the Government's displeasure to the applicant who had, by that time retired from service, on 31.3.1990. As a result of this, the payment of pensionary benefits including the gratuity were held back for a long time but paid ^{at} later stage without interest which would have accrued.

3. Shri B.S.Mainee, learned counsel for the applicant, states that the respondents had, in an arbitrary and irregular manner, dealt with his client who had already superannuated and in spite of the fact that in the enquiry proceedings, he had been exonerated, they had without giving him the copy of the enquiry report, ~~the~~ communicated to him the displeasure of the Govt. and declined to give him the interest accrued on the deferred payment of pensionary benefits stating that he had not been fully discharged. It was also relevant to note that displeasure was not one of the penalties provided under Railway Disciplinary Rules. The two orders are therefore wrong and deserve to be set aside, argues Shri Mainee.

4. Replying, Shri R.L.Dhawan, the learned counsel for the respondents reiterates the points made by him in the counter and avers that it was not a case of total exoneration of the applicant as the enquiry officer had held that one of the four charges, raised against him has been held as proved partially. Since by the time, he had actually retired from service, the General Manager/RCF, Northern Railway took the decision and communicated the displeasure. Shri

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Dhawan admitted that it was not a penalty provided for the provided under the Railway Service (Discipline and Appeal) Rules, but permitted under the instructions. He further stated that communication of the enquiry report was not felt necessary as the disciplinary authority had not differed from the enquiry officer's findings. In the circumstances, the decision taken to communicate the displeasure was a correct one. Holding back of the interest was the logical corollary to it, according to the counsel.

5. We have given careful consideration to the rival contentions made by the learned counsel on either side. It is not disputed that the enquiry report which was generally in favour of the charged officer ^{and} or partially against him was not communicated to him before a decision was taken by the disciplinary authority. In view of the decision of the Hon'ble Supreme Court in Union of India vs. Mohd. Ramzan Khan, 1991 (1) SCC 588, it was incumbent upon the disciplinary authority to have made available to the charged officer, a copy of the preliminary enquiry report before proceeding to take any penal action against him based on the report. This has not been done. Instead, the disciplinary authority has gone ahead and imposed on the applicant the ^{1 of Govt's displeasure} ~~penalty~~ which is not warranted or permitted by the rules. This action of the respondents was mala fide, prejudicial and not warranted. There is no way, we can countenance it.

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6. In the result the application succeeds and is accordingly allowed. The impugned proceedings of 29.10.1996 and 23.1.1998 are quashed. The respondents are directed to pay the applicant the consequential benefits, by way of interest on the pensionary benefits withheld incorrectly. This should be done within three months from the date of receipt of the order. We also order that costs quantified at Rs.3000/- be paid to the applicant.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/