

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER 'A'

R.A. NO.53/97
in O.A. No.1058/96

(19)

New Delhi, this 19th day of February, 1997

1. Union of India, through
The General Manager
Northern Railway
Baroda House
NEW DELHI

2. Financial Advisor &
Chief Accounts Officer 'Const.'
Northern Railway
Kashmere Gate
DELHI

...REVIEW APPLICANTS
'Respondents in the O.A.'

'By Advocate - Shri R.L. Dhawan'

VERSUS

SHRI P.N. KAPOOR
S/o Lt. Shri Lekh Raj Kapoor
Retd. Senior Civil Engg.
'Construction' Survey
Northern Railway
Kashmere Gate
DELHI

r/o KG-1/276 Vikas Puri
NEW DELHI

REVIEW RESPONDENTS

'Applicant in the O.A.'

'By Advocate - None'

ORDER 'BY CIRCULATION'

The main ground taken in this R.A. is that there is an error of law in the impugned judgement, in as much as the directions are not in accordance with the ratio of VOI VS. K.V. JANKIRAMAN AIR 1991 - 2010 which was held to be applicable in the case of the applicant. The review petitioner submits that the Apex Court had held in the Jankiraman case 'Supra' that the concerned authorities must be vested with power to decide whether the employee at all

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deserves any salary for the intervening period and if he does, the extent to which he deserves it. The relevant observation of the Hon. Supreme court is reproduced in the impugned order and may profitably be quoted below:-

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"26. We are, therefore, broadly in agreement with the finding of the Tribunal that when an employee is completely exonerated meaning thereby that he is not found blameworthy in the least and is not visited with the penalty of even of censure, he has to be given the benefit of the salary of the higher post along with the other benefits from the date on which he would have normally been promoted but for the disciplinary/criminal proceedings. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example, delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. In such circumstances, the concerned authorities must be vested with the power to decide whether the employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it."

2. The review petitioners state that the proper direction should have been that ratio of Jankiraman case 'Supra' being applicable, the respondents in that case should consider the claim of the applicant for grant of arrears of salary for the intervening period. On the other hand, the direction was that the arrears should be paid with 12% interest.

3. I have carefully considered the contention of the review petitioners and find that there is no substance therein. The impugned order itself takes notice of the law laid down by the Supreme Court in Jankiraman's case 'Supra', and it was noted that the "respondents have not refused the arrears on the ground that the delay in deciding the case was due to any action on the part of the applicant or because

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the applicant had not been fully exonerated; they rely only on the fact that the judgement in the Jankiraman's case 'Supra' came at later date after the orders regarding refixation were issued." Since the ground for rejection of the claim went, there could be no question of granting another opportunity to the respondents to adduce fresh grounds.

4. For the aforesaid reason, the R.A. is dismissed.

No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER 'A'

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