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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2058 of 1994

New Delhi this the 21st day of July, 1999

HON'BLE MR. JUSTICE D.N. BARUAH, VICE CHAIRMAN  
HON'BLE MR. N. SAHU, MEMBER (A)

Gurcharan Singh  
S/o Shri Harnam Singh  
R/o WZ-675 Shiv Nagar,  
New Delhi. ....Applicant

By Advocate Shri G.D. Bhandari

Versus

1. Union of India  
through the General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi. ....Respondents

By Advocate : None.

ORDER (ORAL)

Hon'ble Mr. Justice D.N. Baruah, Vice Chairman

The applicant was at the relevant time the  
Station Superintendent. A disciplinary proceeding  
was initiated against the applicant. In the said  
disciplinary proceeding, the applicant sought for  
certain documents and accordingly he requested the  
authority to supply those documents. The Enquiry  
Officer who was enquiring the charge, also directed  
the Disciplinary Authority to produce documents,

however, those were not supplied. Thereafter, the Enquiry Officer sent back the matter to the disciplinary authority. In the meantime, the applicant was eligible for certain promotions. However, his name was not considered. The applicant approached this Tribunal and at the request of the applicant, this Tribunal directed the respondents to consider the case of the applicant and also further directed to adopt the sealed cover procedure. The disciplinary proceeding came to an end exonerating the applicant. The applicant has not stated anywhere as to whether the sealed cover procedure was adopted or not but he was not promoted. Thereafter a fresh disciplinary proceeding was initiated on some allegations and on the conclusion of the proceeding, the penalty of reduction was imposed by 2 stages in the same pay scale for one year. Being aggrieved, the applicant preferred an appeal before the appellate authority. The appellate authority modified the penalty by reducing it to six months. Thus the enquiry came to an end. Meanwhile, the applicant reached the age of superannuation and retired on 31.3.94. However, his gratuity and commutation of pension were not given in spite of

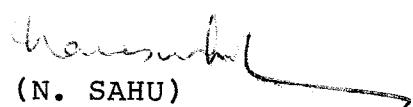
repeated requests by the applicant. Hence, the present application.

2. The respondents entered appearance and had filed written statement controverting the claim of the applicant. We have heard Shri G.D. Bhandari, the learned counsel appearing for the applicant. None appears for the respondents.

3. Mr. Bhandari submits that though the disciplinary proceeding came to an end, he was not given gratuity and commutation of pension. Mr. Bhandari has drawn our attention to Rule 2308 of the Indian Railway Establishment Code Vol.II which states that the Gratuity and Death-cum-Retirement Gratuity shall not be paid if any proceeding is pending but shall be paid only on the conclusion of such proceedings. Shri Bhandari submits that as the departmental proceeding has come to an end, he should be given the Gratuity and Commutation of Pension etc. But we find Annexure A-17 sanction order by which sanction was accorded by the sanctioning authority to launch prosecution against the applicant under Rule 6(1)(c) of Prevention of Corruption Act, 1947. Mr. Bhandari also admits that the criminal proceeding is pending. Mr. Bhandari further submits

that a similarly situated person like Amrik Singh was exonerated and paid the dues. It is difficult for this Tribunal to come to a definite finding as the materials are not available. More so, the learned counsel for the respondents is also not present. In the circumstances, we cannot grant any relief to the applicant.

4. From the record we find that Annexure A-2 representation is still pending. Therefore, we direct the respondents to dispose of the representation. The applicant may also file a fresh representation giving details of his claims within a period of 2 weeks from today. If such a representation is filed, the respondents shall also consider the same and dispose of the matter as early as possible at any rate within a period of 2 months from the date of submission of the representation. In the circumstances, we make no order as to costs.

  
(N. SAHU)  
MEMBER (A)

  
(D.N. BARUAH)  
VICE CHAIRMAN

Rakesh