

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA. No.1782 of 1994

(7)

Dated New Delhi, this 13th day of January, 1994

Hon'ble Shri J. P. Sharma, Member (J)

Hon'ble Shri B. K. Singh, Member (A)

Shri A. C. Madan
R/o 70, Jagannath Puri
T.P. Nagar, Meerut
U.P.

... Applicant

By Advocate: Shri M. L. Sharma

Versus

Union of India through

1. General Manager
Northern Railway Headquarters Office
Baroda House
NEW DELHI.

2. Chief Engineer
Northern Railway Headquarters Office
Baroda House
NEW DELHI.

3. Divisional Superintending Engineer (C)
Northern Railway D.R.M. Office
NEW DELHI.

... Respondents

By Advocate: Shri B. K. Aggarwal

JUDGEMENT

Shri B. K. Singh, M(A)

This application has been made against letter No.113-T/11/62/93((EA) dated 22.10.1993 issued by the DSE(C), DRM office, Northern Railway, New Delhi; letter No.113-T/62/93 dated (TA) dated January, 1994 issued by the DSE(C), DRM Office, Northern Railway,

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New Delhi; letter No.113/T/11/62/93(TA) dated 7/1994 issued by the DSE(C), DRM office, Northern Railway, wherein New Delhi vide order dated 22.10.93(Annexure A-1)/the applicant has been punished with a penalty of withholding of increment for a period of one year without holding an enquiry. The Appellate Authority and the Revisionary Authority have also rejected the revision appeal/L of the applicant without following the procedure and without applying their mind.

Annexure A-2 and Annexure A-3 are the rejection of appeal and revision filed by the applicant. Annexure A-4 is the minor penalty charge sheet dated 20.8.93.

2. The admitted facts of the case are that the applicant joined the Railway Service as Inspector of Works through Railway Service Commission and was appointed as such on 4.8.63 in Northern Railway. While combining the duties of Shri P. D. Verma, there was rainfall on 25.6.93 which caused flooding and covering of the track by mud and stony dust at the siding. His defence was that the maintenance of track was to be looked into by P.W.I./Tughlakabad and that he was not responsible for its maintenance or for heavy mud and dust which covered the tracks as a result of the heavy rainfall on 25.6.93. On the basis of a show cause notice and his reply he was punished with minor penalty of withholding of increment for a year without cumulative effect. However, the main

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contention is that the applicant is retiring on 31.5.96 and the last ten months' emoluments would be taken into consideration for grant of pensionary benefits. His pay for the month of August, 1995 would be affected by the punishment order since this will be a part of the ten months period and thus his pensionary benefits are adversely affected.

3. The learned counsel for the applicant argued that before punishment is inflicted, a departmental enquiry is a must since it amounts to denial of a part of his pension. The learned counsel for the respondents fairly conceded this.

4. A perusal of the Railway Establishment Rule clearly lays down that in case of any deductions, cut in pensions, the authority is required to act judicially when its decision involves penal consequences. In such a case, the principles of natural justice must be followed before ordering such a cut otherwise the orders affecting the pension adversely will be deemed to be illegal. This has been held in case of SLR 1972 DLI 731, AIR 1968 SC 240 and AIR 1960 SC 247.

The Hon'ble Supreme Court have held that pension and gratuity are not to be treated lightly as bounties distributed by the Government to its employees but these are available rights and property in the hands of the employees and as such any cut or deductions thereof will entail penal consequences and as such a departmental enquiry is a must and the employee has to

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be given the full opportunity to defend his case before any cut is effected in his pension. This being so, the impugned orders of Disciplinary Authority/Appellate Authority/Revisionary Authority are all quashed and set aside and the case is remitted to the competent authority to launch a regular departmental enquiry if the intention is to effect cut in pension as a measure of punishment or to modify the order in a manner that the pension of the applicant is not affected.

5. The respondents are given eight weeks' time to take a final decision in the matter.

6. With these directions, the OA is disposed of with no order as to costs.

(B. K. SINGH)
Member(A)

done
(J. P. SHARMA)
Member(J)

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