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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
...

OA No. 1412/93

New Delhi, this the 17th day of March, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Karam Singh s/o Sh. Dhana Ram,
r/o Flat No. 413, Virat Group Housing Society,
Jawala Puti-5, Rohtak Road, New Delhi. ...Applicant

(By Advocate: Shri V.P. Sharma)

Versus

Union of India through

1. The General manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Bikaner.
3. The Divisional Commercial Supdt.,
Northern Railway,
Bikaner. Respondents

(By Advocate: None)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)

We have heard the learned counsel for the applicant and have also gone through the documents placed by the parties on record.

2. The applicant, while working as Parcel/Booking Clerk was served with a charge-sheet dated 9.7.1982 but the departmental enquiry was not concluded before the applicant's retirement on superannuation on 31.8.1988. In the meantime the applicant had challenged the validity of the charge-sheet by filing OA No. 1061 in

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this Tribunal in the year 1987. Since the applicant retired during the pendency of the O.A. his counsel appeared before the Tribunal and sought permission to withdraw the O.A. The Tribunal vide the order dated 8.12.1992 granted the permission as prayed for and dismissed the O.A. as withdrawn. However, in the order the Tribunal made the observation that since the disciplinary proceedings were sought to be initiated in the year 1982 and since then nearly ten years had elapsed" and the department itself "is handicapped for want of records" no useful purpose would be served by continuing those proceedings.

3. Taking the above observations as a decision or finding by which the disciplinary proceedings have been quashed the applicant has filed this O.A. claiming notional promotions to higher posts from the dates promotions were granted by the respondents to the applicants' juniors. According to the applicant since the respondents were under the rules required to adopt the sealed cover procedure which was to be opened after the applicant was exonerated in the departmental enquiry the respondents should now consider his case for promotion to higher grades.


4. The respondents have filed a detailed reply to which the applicant has also filed a rejoinder.

5. As already indicated, the O.A. filed by the applicant challenging the charge-sheet issued to him in 1982 was later withdrawn by him and was accordingly dismissed by the Tribunal as withdrawn. Therefore, there

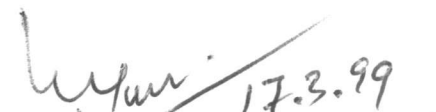


is no merit in the contention of the applicant that the Tribunal quashed the charge-sheet or the disciplinary proceedings. Equally devoid of force is the applicant's contention that he should be deemed to have been completely exonerated. In our considered view this is a simple case of non-continuance of disciplinary proceedings after the retirement of the employee which had been initiated prior to the date of his retirement. By the mere fact that the respondents did not proceed further with the departmental enquiry after the retirement of the applicant the right to claim promotion to higher grades would not accrue to the applicant, especially so in view of the fact that the applicant had got his earlier O.A. dismissed as withdrawn.

6. For the foregoing reasons we find no merit in this O.A. which is accordingly dismissed. No costs.


(S.P. Biswas.)
Member (A)

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(T.N. Bhat)
Member (J)