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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 2396/93

New Delhi this 15th Day of April 1994

The Hon'ble Mr. J.P. Sharma, Member (J)

Shri V.V. Sathyavrathan,
Son of Shri V.R. Velayudhan,
Retired Telecommunication Maintainer,
Microwave, Northern Railway,
New Delhi.

Resident of M-97 Saket,
New Delhi-110 017.

... Applicant

(By Advocate : Shri KNR Pillai)

Versus

1. Union of India,
through the Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhawan, New Delhi.

2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

.. Respondents

(By Advocate : Shri HK Gangwani)

ORDER ()

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

The applicant was employed as TCM Grade I in the Northern Railway, DRM, New Delhi. He was served with a memo of chargesheet by the order dated 28.10.1985 under Rule 9 of the Railway Servants (Discipline & Appeal) Rules 1968. The applicant was imposed the penalty of reduction to a lower post reducing the applicant from TCM Grade I to the post of Khalasi Helper. The Appellate Authority reduced the punishment imposed on the applicant by the disciplinary authority

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reverting the ^{applicant} ~~Z~~ to the post of TCM/MW-III in the grade of Rs. 950-1500. The applicant filed the original application No. 1027/87 before the Principal Bench which was decided by the order dated 17.11.1991. The punishment imposed upon the applicant was quashed with the liberty to the disciplinary authority to continue the departmental enquiry and after furnishing the report of the enquiry officer take action after considering the representation of the applicant. The applicant retired from service on 31.12.1992. The grievance of the applicant is that he has not been paid the pension and other retirement benefits. He filed the present application for the grant of the relief that the respondents be directed to pay the pension and other retirement benefits including DCRG, leave encashment etc. with interest at the rate of 15%.

2. The respondents contested the application and stated that the applicant absented during his service period from 22.5.1976 to 21.8.1981 and the matter is still pending before the Deputy CPO for the approval of the Dies-non for this period. The applicant was again on unauthorised absence from duty from 8.6.1982 to 24.10.1982. The punishment imposed upon the applicant have been quashed in O.A. No. 1027/87 passed in the departmental enquiry under Rule 9 of the Railway Servants (Discipline and Appeal) Rules 1968. That judgement have been implemented but the approval of the competent authority is awaited to recommence the departmental enquiry. It is

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further stated that since the unauthorised absence for 5 years have been not regularised and the applicant is still to face the departmental enquiry, so his terminal benefits cannot be settled. In view of this fact the applicant could not be paid the retirement benefits.

3. I heard the learned counsel for the applicant and perused the record. The respondents should have given the provisional pension to the applicant counting the period of which the applicant ^{was} found on active duty ignoring the period of his absence from 1976 to 1982 and the period from 1982 to 1986. This period is to be settled by the respondents as per extant rules and after the disciplinary proceedings against the applicant comes to an end. The applicant cannot be said to be disqualified for the grant of pension for the actual qualifying service which he has spent on duty with the respondents. The applicant cannot be made to starve and even if a person is under suspension while in service he has to be paid the subsistence allowance.

4. In view of the above facts and circumstances the respondents are directed to sanction provisional pension to the applicant taking into account the qualifying service and the period when the applicant was on actual duty and for the period which is not in controversy. On the basis of that Qualifying Service the applicant should be granted the provisional pension on the basis of the last pay drawn by him subject to any further order which may be passed in the departmental enquiry against him. The learned counsel for the applicant only pressed in this application for

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the grant of the provisional pension. The application, therefore, is disposed of accordingly. The respondents to comply with the direction within the period of three months from the date of receipt of this copy of the judgement. The respondents also to conclude the departmental enquiry against the applicant as expeditiously as possible. Costs on parties.

J.P. Sharma
(J.P. Sharma)
Member (B)

Mittal