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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No.852/93

New Delhi, this the 21st day of January, 1994.

SHRI J.P. SHARMA, MEMBER (J).

Shri Virender Kumar,
son of Shri Gopal Dass,
Retired Station Superintendent,
Northern Railway, Bikaner Division,
Garhi Har Saru,
r/o: E - 239, Tagore Garden Extension,
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, Bikaner.

...Respondents

(*Admitted by N.K. Agarwal*)
ORDER (ORAL)

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The applicant retired on his own volition from the railway service while working as Station Supdt. in Bikaner division. About a fortnight before retirement, he has been served with major penalty chargesheet along with a copy of imputation of misconduct allegedly committed falling under Section 3(1)(3)(ii) of the Railway Servants (Conduct) Rules, 1966. The grievance of the applicant is that though he has been paid GPF, leave encashment and provisional pension in July, 93 but the final pension order, the commutation of pension and the amount of DCRG has been withheld causing great hardship to a retiree.

2. He, therefore, prayed for the grant of the relief that the respondents be directed to release the DCRG and final pension along with ^{commutation and} interest.

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3. A notice was issued to the respondents who contested the application opposing the grant of the relief on the ground that the applicant has been served with a major penalty charge sheet dated 16.3.93 while he retired on his volition in April, 1993. In view of the provisions of para 316(1) of the Manual of Railway Pension Rules, 1950 read with para 1202 of Manual of Pension Rules, 1950, the amount of DCRG cannot be paid to the applicant and only the provisional pension order can be issued which should be on the basis of last pay drawn by an employee who had not been suspended till the serving of the chargesheet and on the date of his retirement.

4. The contention of the learned counsel for the applicant is that the proceedings departmentally drawn at the fag end of his service are mala fide and a person by a stroke of pen cannot maliciously enter into such an action to give financial loss by non-payment of retirement benefits. The learned counsel has also argued on the issuing of charge sheet that the ^{imputations} ~~imputation~~ alleged does not amount to a misconduct in as much as while issuing MST, the applicant has not recovered any excess amount and thereby that was not shown in the MST register.

5. Learned counsel for the respondents Sh. N.K. Aggarwal placed reliance on the statutory rules which have not been challenged in this case. The respondents have followed the rules and it cannot be said that their action on the administrative side is illegal or de hors the rules.

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6. The challenge to the chargesheet has not been made in the present proceedings. That point cannot be covered as the same is not the issue while disposing of this application.

7. The learned counsel, however, prayed modifying the earlier relief to the extent that the respondents be directed to conclude the departmental proceedings at the earliest and further the applicant be compensated monetarily for delayed payment of DCRG, if finally he is exonerated.

8. Having given a careful consideration, the relief claimed by the applicant in the original application cannot be granted. However, in the interest of justice, seeing that the applicant has since retired, the respondents are directed to dispose of the disciplinary proceedings as expeditiously as possible and in case the applicant is exonerated, he should be compensated monetarily by way of interest. Cost on parties.

J.P. Sharma

(J.P.SHARMA)
MEMBER(J)

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