

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

O.A./T.A./CCA No. _____

11/45/2001

Date of decision _____

[Signature]

J. Singh

Applicant(s)

Sh. K.K. Mishra

Counsel for the applicant(s)

Versus.

U.O.I & O.S.

Respondents(S)

Sh. —

counsel for the respondent(s)

CORAM

Hon'ble Mr. _____

DR. Tiwari

V.C./Member(A)

Hon'ble Mr. _____

KBS Rajan

Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordship wish to see the fair copy of the judgment?
4. Whether to be circulated to all Benches?

[Signature]

SIGNATURE

Manish/-

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO.1145 OF 2001

ALLAHABAD THIS THE 10th DAY OF FEBRUARY 2006

**HON'BLE MR. D.R. TIWARI, MEMBER-A
HON'BLE MR. K.B.S. RAJAN, MEMBER-J**

Jagjit Singh, aged about 45 years, S/o Sri B.L. Singh, at present posted as Head Enquiry cum Reservation Clerk at Aligarh.

(By Advocate Shri K.K. Misra)

V E R S U S

1. Union of India, through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Senior Divisional Personnel Officer, Northern Railway, Allahabad.
4. Senior Divisional Commercial Manager, Northern Railway, Allahabad.
5. Divisional Commercial Manager, Northern Railway, Allahabad.

.....Respondents

(By Advocate: None)

O R D E R

BY K.B.S. RAJAN, MEMBER-J

The applicant has assailed the order dated 03-01-2001 of the Disciplinary Authority and that dated 10-04-2001 of the

Appellate Authority and had prayed for quashing of the afore said orders as the same are illegal.

2. Facts of the Case: The applicant, working at the material point of time as Head Reservation cum Enquiry Clerk was slapped with a charge sheet for certain alleged misconduct, vide charge sheet dated 13-09-1999. After following the prescribed formalities, the I.O. had rendered his report on 18-08-2000 holding the charges as proved. Copy of the Inquiry Report was made available to the applicant before imposition of penalty and the same was represented against by the applicant on 28-09-2000. The Disciplinary Authority had imposed the penalty of reduction to lower scale of 4,500 – 7,000 at the minimum of Rs 4,500/- for a period of 15 years with cumulative effect, vide order dated 03-01-2001. The applicant challenged the same on various grounds including the competence of the Disciplinary Authority and that imposing penalty of reduction in the pay scale for fifteen years, when the applicant was to superannuate within 14 years amounted to reduction on permanent basis, which is against the rules and notification of the Railways, vide notification dated 22-01-1960. The Grounds of challenge also included that the imposition of penalty is against the law laid down by the Apex Court in the case of Ramachander vs Union of India, which held that the Appellate Authority cannot simply reproduce the phraseology without application of mind. Support is also taken from the decision of the Madras Bench in the case of Muthukumar vs UOI ATR 1993(1) CAT 623.

3. Respondents have filed their counter, rebutting the averments and contentions of the applicant.

4. Arguments were heard and the parties were permitted to file written submissions as well. In response to the same, the applicant has filed written argument.

5. In his written submission the applicant has contended that law is clear on the subject. No penalty of reduction of a lower stage could be for an indefinite period or on permanent basis. Reliance was placed on Railway Board's Circular dated 22-01-1960 which states, "*The reduction to a lower stage in a time scale for an unspecified period or as a permanent measure is not permissible under the Rules*". The applicant has also relied upon the following judgments:-

(a) *Shri N.C. Jena vs U.O.I. and others*, 2005(1) ATJ 258 which states that that authorities cannot bar promotion of an employee indefinitely forever by a penalty order of permanent reduction in the rank from the higher grade.

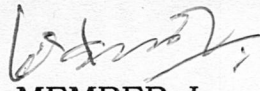
(b) *Mahatam vs U.O.I and others* 2005(3) ATJ232 which states that appellate authority should take a detailed decision after dealing with the contentions raised in appeal (relying upon *State Bank of India & Ors vs D.C. Aggarwal & Anr* (1993) 2 SLJ SC 88 and *Ram Chander vs UOI and Others* 1986(2) SLJ SC 249.

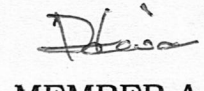
6. The applicant, at the time of being visited with the penalty order has just fourteen years to go in for superannuation and

the currency of penalty is for fifteen years, which means that the applicant can not get any promotion during the rest of his career. In other words, the order of reduction to the lower scale is on a permanent measure, which is diagonally opposite to the circular dated 22-01-1960 extracted above. 'Indefinite period' referred to therein would mean that no period is stipulated. 'Permanent measure' would either mean if the same is so spelt out or if the stipulation is such that it acts as a permanent measure. Of course, when an individual has just one or two years to superannuate, even if the penalty lasts upto the superannuation, it may not be construed as "permanent measure", for in that event, prescription of one or two years as the currency of penalty becomes definite. However, prescription of 15 years, in a case where the individual has only 14 years to go for superannuation, though is a definite period, the inevitable impact of the same is that the penalty is on a permanent measure. As such, the penalty order in this case, which prescribes a long period of 15 years which goes beyond the date of superannuation of the applicant, cannot be sustained.

7. On the above ground, the order dated 03-01-2001 of the Disciplinary Authority and that dated 10-04-2001 of the Appellate Authority are hereby quashed and set aside. The applicant is entitled to the consequential benefits, i.e. his pay would be restored to the original pay scale of Rs 5,000 – 8000 with the pay as he was drawing at the time of imposition of

penalty, and with necessary annual increment admissible to the scale. If the applicant has been considered for promotion and the same has been withheld on account of the currency of penalty, the same should also be reviewed in accordance with law. No cost.


MEMBER-J


MEMBER-A

GIRISH/-