

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 22nd day of July, 2021

ORIGINAL APPLICATION NO. 330/00495 of 2021

HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Mahesh Prasad Agrawal, aged about 64 years, S/o Late K.L Agrawal, R/o 33-A/1, Attarsuiya, District Prayagraj 211003.

.....Applicant.

Advocates for the Applicant : Mr. A.K. Pandey

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi 110001.
2. The Senior Divisional Personnel Officer, Northern Railway, Hazratganj, Lucknow.
3. Senior Divisional Engineer –Vth Northern Railway, Hazratganj, Lucknow.
4. Assistant Divisional Engineer, Northern Railway, Faizabad (now Ayodhya) U.P.

.....Respondents

Advocate for the Respondents : Shri G.K. Tripathi

O R D E R

I have joined this Bench online through Video Conferencing.

2. Shri Akhilesh Kumar Pandey, learned counsel for the applicant and Shri Girijesh Kumar Tripathi, learned counsel for the respondents, both have appeared online through video conferencing.
3. Heard learned counsel for the parties and perused the records.

4. The brief facts of the case are that the applicant, who was working as a Superintendent in the Northern Railway, was dismissed from service pursuant to disciplinary proceedings wherein the main charge against him was financial impropriety and falsification. I will not go into the merits and otherwise of the disciplinary proceedings as the same have not been challenged in this O.A.

5. The limited relief sought in this OA by the applicant is that the respondents be directed to make the payment of leave encashment and gratuity to him; and also pass an appropriate order on payment of the compassionate allowance to the applicant.

6. Learned counsel for the applicant argues that the instructions and rules governing the payment of compassionate allowance are crystal clear that the disciplinary authority while passing the final order of penalty has to take a specific decision and convey the same on grant/payment of compassionate allowance or in the alternative, rejecting the claim of the concerned employee for payment of compassionate allowance. He fairly points out that in the instant case, the disciplinary authority has remained silent on this issue and this is contrary to the instructions governing the subject. He also points out that the amount to be recovered from the applicant as a way of making good the losses he is alleged to have caused is far less than the amount of gratuity and leave encashment which has been denied to him.

7. Learned counsel for the respondents, on the other hand, argues that this case has a history of multiple litigations and at present, the matter is pending in the Hon'ble High Court wherein the challenge of the penalty of dismissal of service is being agitated by the applicant.

8. Learned counsel for the respondent would further contend that it would not be fair to take a decision in the present O.A. till the matter is finally decided by the Hon'ble High Court because whatever relief the applicant has sought in this application would be squarely dependent upon the outcome of that matter.

9. Having heard learned counsel for both the parties, I am of the view that this matter can be disposed of at the initial stage with the direction to the respondent No. 2 i.e. the The Senior Divisional Personnel Officer, Northern Railway, Hazratganj, Lucknow to dispose of the representation dated 01.02.2021 which the applicant has already preferred before the Divisional Railway Manager and in which the applicant has detailed his grievances and the relief he expects from the respondents. Needless to say, that the respondent No.2 shall take a fair and judicious view in the matter and dispose of the representation strictly in accordance with the law and rules governing the subject.

10. Learned counsel for the respondents points out that the representation is addressed to Divisional Railway Manager, who is not a party in the present case and such a direction may not be in order. Submitting to the argument made by the learned counsel for the respondents, it is further directed that in case, Senior Divisional Personnel Manager decides that he himself is not competent to take a final decision on the representation of the applicant, he would forward the same to the Divisional Railway Manager along with the direction of the Tribunal that the appropriate competent authority shall decide the representation of the applicant within the period of eight from the date of receipt of a certified copy of this order.

11. In view of the above, the OA is disposed of.

12. It is made clear that I have not expressed any opinion on the merit of the case.

13. No order as to costs.

(TARUN SHRIDHAR)
Member (A)

Manish/-