

~~Am~~ Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

O.A.No.890 of 1988

Nathan Sahai Srivastava ... Applicant.

Vs.

Union of India & others ... Respondents.

Hon'ble Ajay Johri, A.M.  
Hon'ble G.S. Sharma, J.M.

( By Hon.A.Johri )

By this application made under section 19 of the Administrative Tribunal Act XIII of 1985, the applicant who has retired from the post of Assistant Personal Officer, North Eastern Railway, Sonepur has challenged an order dated 28.2.85 by which a memorandum of charges was issued to him under Rule 9 of the Railway Servants Disciplinary Appeal Rule 1968. The grounds for approaching this Tribunal for quashing of the memorandum issued to the applicant on 28.2.1985 are that the provision of Rule 2308 of Indian Railway Establishment Code Volume II cannot be invoked, in case on minor offences which do not <sup>34</sup> ~~cause~~ <sup>34</sup> ~~causing~~ any loss to the government and that the charges are contrary to the provisions of this rule because no pecuniary loss has been caused to the government and <sup>34</sup> ~~nor~~ there has been any misconduct or negligence. Further it has

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been said that these charges had already been  
considered by respondents No.2 in 1983 and resulted  
in position of <sup>3/4</sup> ~~the~~ recorded <sup>3/4 warning</sup> ~~warning~~ as a final action.

2. The applicant has also prayed that his DCRG  
which has been withheld and has not been paid to him  
on his retirement should also be released.

3. We have heard the applicant in person. As far  
as the memorandum dated 28.2.85 is concerned, the prayer  
~~3/5~~ <sup>3/4</sup> being made <sup>3/4 is</sup> for declaring the memorandum as illegal  
on the grounds that it is not in accordance with rule  
2308. We do not <sup>3/4 agree</sup> ~~not~~ to this submission. Rule 2308-RII gives  
a right to initiate action for withholding the pension or  
part <sup>of it</sup> ~~effect~~ for negligence and misconduct. Since the  
applicants responsibility in regard to the same can only  
be determined after the enquiry is completed, his prayer  
for quashing the same on the ground that there is no  
mis conduct or negligence is premature. Not only this  
but the applicant <sup>3/4 has</sup> also moved this Tribunal beyond the  
period of limitation as for as <sup>3/4 the</sup> issue of the  
charge sheet is concerned.

4. We, therefore, do not want to interfere that the  
disciplinary proceedings pending against the applicant.  
Since the payment of DCRG is also held-up on account of  
the pendency of these proceedings and it is already  
nearing four years that this charge sheet was issued to

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<sup>3/</sup> the applicant, we feel that in the interest of justice it is necessary to issue a direction to the respondents to finalize the disciplinary case against the applicant within a period of six months from the date of receipt of this order and then take action to release his DCRG according to rules.

5. The application is dismissed at admission stage with the above observations and directions.

*3/ J. Narine*

MEMBER (J)

*3/ B. R. Patel*

MEMBER (A).

Dt. Jan. 11th, 1989.

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