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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

Dated : Allahabad this....^{8th} day of May....1996.

CORAM : Hon'ble Mr. T. L. Verma, Member-J
Hon'ble Mr. D.S. Baweja, Member-A

ORIGINAL APPLICATION NO. 128 of 1988

R. K. Verma, son of late Mool Chand Verma,
Senior Signaller, Northern Railway, Laksar,
District Saharanpur
R/o. T-19/A, Railway Quarters, Roorkee,
District Saharanpur-247667.....Applicant.
(THROUGH SRI A.S.DIWAKAR)

Versus

1. Union of India through the General Manager,
Northern Railway, New Delhi.
2. Divisional Railway Manager,
Moradabad-244001.

.....Respondents.

(THROUGH ADVOCATE SRI A.K.GAUR)

O R D E R(reserved)

(By Hon'ble Mr. T. L. Verma, Member-J)

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In this application under Section 19 of the Administrative Tribunals Act, 1985, the order dated 18.7.1984 passed by the Disciplinary Authority with-holding the increments of the applicant for three years and payment of salary, Provident fund, Gratuity Pension etc. is under challenge. The order dated 2.6.1987 passed by the Railway Minister up-holding the punishment imposed by the Divisional Railway Manager, Moradabad is also subject matter of challenge in this O.A.

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2. The applicant while working as Senior Signaller, Northern Railway, Laksar District Saharanpur was issued minor penalty charge-sheet dated 11/19.4.84 on the allegation that he failed to perform the duty from 16 to 24.00 hours shift as per the order of the Head Signaller Laksar, dated 14.10.1983. after forfeitting weekly rest of 15.10.1983. The further allegation is that he passed uncalled for remarks against the head Signaller Laksar. The applicant was called upon to submit his representation against the charges levelled against him within 10 days of the receipt of the memorandum. The applicant submitted his representation on 8.5.1984. The disciplinary authority found the representation unsatisfactory and held the applicant guilty ^{and passed punishment} of withholding increments due on 1.3.1985 for a period of three years. The applicant claims ^{SI} to have filed appeal against the said order of penalty but, the same has remained undisposed of. Hence this application for the reliefs mentioned above.

3. The impugned order of punishment have been assailed ~~inter~~-alia on the ground that the order with-holding increment for a period of three years could not have been passed, without holding fulfilled inquiry in view of the fact that the applicant was due to superannuate within two years from the date of the order of penalty.

4. The respondents have appeared and contested the case of the applicant. In the counter-affidavit filed on behalf of the respondents, it has been stated that the disciplinary authority has passed the punishment of with-holding increments of

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carefully considering the merit of the case and as such does not call for any interference by this Tribunal.

5. We have heard the learned counsels for the parties and perused the record. Sub-Rule (2) of rule 11 of the Railway Servants (Discipline & Appeals) Rules, 1968 provides that :-

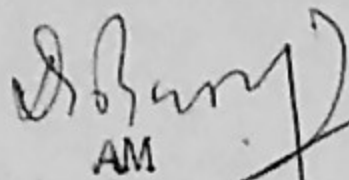
"11. Procedure for imposing minor penalties:-

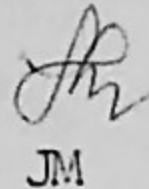
(2) Notwithstanding anything contained in clause (b) of sub-rule(1), if in a case, it is proposed, after considering the representation, if any, made by the Railway servant under clause (a) of that sub-rule to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension or special contribution to Provident Fund payable to the Railway Servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period an inquiry shall be held in the manner laid down in sub-rules(6) to (25) of rule 9, before making any order imposing on the Railway Servant any such penalty."

K A plain reading of the provisions of Discipline and Appeal Rules as extracted above, clearly indicate that even in a minor penalty charge-sheet where the penalty of withholding increments is likely to affect adversely the amount of pension or special contribution to Provident Fund payable to the Railway servant an inquiry shall be held as provided in sub rule (6) to (25) of Rule 9 of the Discipline and Appeal Rules.

6. In the instant case, the applicant was due to retire on 31.7.1986. The impugned order of withholding increment for ~~three~~ years was passed on 18.7.1984 ie. within two years of the date of his superannuation. Since the punishment of withholding of increments has been passed without cumulative effect, the increment of the applicant would have been restored on completion of three years on 1.3.1988. Had the applicant superannuated after 1.3.1988, his retiral benefits would not have been affected and the order of penalty withholding increment for a period of three years would have been inconsonance with the provisions of the rules. In the instant case as we have already seen, the increment of the applicant will not be restored before his superannuation as such the same will affect adversely the amount of pension and therefore, the same is contrary to the provisions of rule 11(2) of the Discipline and Appeal rules extracted above.

7. For the reasons stated above, we find that the impugned order withholding the increment of the applicant being contrary to the statutory provisions cannot be sustained. This application is, therefore, allowed and the order dated 18.7.1984 passed by the disciplinary authority is hereby set aside. The order passed by the Railway Minister upholding the penalty imposed by the disciplinary authority also by implication stands quashed. The applicant shall be entitled to all consequential benefits including refixation of pay by granting the with-held increment. Let this direction be implemented within a period of two months from the date of communication of the order. There will be no order as to costs.


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