

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 20th day of July 2000.

Original Application no. 1777 of 1993.

Hon'ble Mr. Rafiq Uddin, Judicial Member  
Hon'ble Mr. M.P. Singh, Administrative Member

Sumer Singh,

S/o Late Shri Shiv Singh,

Chief Inspector of tickets under suspension,

R/o 43/B, Railway Colony Near Aligarh,

Railway Station, Aligarh.

... Applicant

C/A Sri J.P. Singh

VERSUS

1. Union of India through General Manager,  
Northern Railway, Baroda House, New Delhi

2. Divisional Railway Manager, Allahabad Division,  
Northern Railway, Allahabad.

3. Sri K.K. Gupta, Chief Freight Transport Manager,  
Northern Railway, Baroda House, New Delhi.

4. Sri R.C. Dubey, Additional Divisional Railway  
Manager(I) Allahabad Division, Northern Railway,  
Allahabad.

... Respondents.

C/Rs Sri S.N. Gaur.

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O R D E R

Hon'ble Mr. Rafiq Uddin, Member-J

The applicant has sought the following reliefs through this O.A.:-

- a. The respondents be kindly directed to have the enquiry into the charge or charges against the applicant expeditiously conducted as per rules and concluded and have final orders passed by the Competent authority resulting in exoneration of or punishment to the applicant, and,
- b. The respondents be kindly further directed to treat the applicant in service as a Railway servant under suspension entitled to subsistence allowance and other benefits due to a Railway servant under suspension as rules till the enquiry is concluded and final orders are passed by the Competent Authority.

2. The case of the applicant is that he was posted as Chief Inspectors of tickets at Aligarh and was due to retire on superannuation. <sup>on 30-9-86</sup> The applicant on 09.10.86 received an order dated 05.09.86 issued by Sri K.K. Gupta, the then DCS, Northern Railway, Allahabad <sup>appointing</sup> ~~appointed by~~ inquiry officer. The applicant submitted request for supply of charge sheet, but he did not receive any response. Therefore, he moved representation on 28.12.86 to the D.R.M. Northern Railway Allahabad (respondent no.2) for payment of subsistence allowance and copy of charges to enable him to file his reply. In the meantime the respondents treating the applicant as retired without issuing any order of retirement, released some money of Provident Fund, leave encashment, but subsistence allowance was not released. The applicant was also not paid

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any pay for the period after the date of suspension. The respondents ~~have~~ also started paying him pension. The applicant also alleges that on 15.01.88 Sri B.L. Bharti, the then Sr. DCS ordered the inquiry against the applicant as well as one Shri Shanker Lal Sharma. The applicant again submitted his representation on 18.02.88 for issuing of copy of charges and for payment of subsistence allowance and pay etc. and also made complaint that inquiry against him has not proceeded, but he did not receive any reply. The applicant again repeated his request on 02.11.89 and moved his request to General Manager, making complaint regarding inquiry proceedings not being held against him nor any copy of charges levelled against him being sent to him. However, he did not receive any reply.

3. In short, the case of the applicant is that he was placed under suspension, but he was never reinstated. Therefore, he had not retired. The applicant also not been paid subsistence allowances.

4. The respondents in their counter affidavit have categorically stated that the applicant retired on 30.09.86 as Chief Inspector of Tickets from Northern Railway and was paid full pensionary benefit as admissible under rules. It is also stated that at the time of retirement the applicant was holding Railway quarter bearing number 43 B Type open New Colony, Aligarh, and therefore, some of Rs. 40,425/- being amount of DCRG has not been paid to him, as he has failed to vacate the Railway quarter after retirement.

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5. We have heard learned counsel for the parties and perused the record.

6. It is an admitted case that the applicant had received all pensionary benefits after his retirement from railways on 30.06.86. The applicant has not filed any copy of suspension order alleged to have been passed by the respondents, placing him under suspension. The respondents have denied having placed him under suspension. Therefore, it is not established that the applicant was ever placed under suspension. A perusal of annexure A-2 clearly shows that it is not a suspension order. The respondents have also stated that no departmental inquiry was ever held against the applicant. The applicant has merely filed copies of several representations made by him to the authorities regarding supply of copy of charge sheet and payment of subsistence allowance, but he has failed to file any copy of suspension order. It is not, therefore, established that the applicant was ever placed under suspension by the respondents.

7. Learned counsel for the applicant has referred to Railway Board's letter no. E(G) 66 EML-2 of 14.09.66 which reads as follows :-

"When a Railway servant has to be retained in service beyond the age of superannuation on account of departmental, policy or judicial inquiry, he should be placed under suspension before he attains the age, if the charge against him is considered strong enough to justify such an action, otherwise he should be allowed to retire in the normal course. If the Railway servant is placed under suspension he shall be retained in

service till the inquiry into the charge is concluded and final orders are passed thereon by the competent authority. Such employees who are retained in service beyond the age of superannuation, cannot be permitted to accept commercial employment."

8. This O.A. has been filed by the applicant on 24.11.93, after his retirement on 30.09.86. The applicant has clearly admitted of having received all the retiral benefits including pension, GPF etc. The applicant has failed to show that he was ever placed under suspension. The applicant has also not denied of having retained the railway residential quarter. It appears to us that the applicant has filed the present OA as a device to justify the possession of the railway residential quarter after treating him as an employee under suspension. It is clear from the perusal of the Railway Board's letter dated 14.09.66 cited above, that it requires ~~the~~ positive decision by the Railway Authorities to place the employee under suspension and, if it is found necessary to place the Railway employee under suspension considering the nature of charge to justify the suspension. In the present case, we find that no such decision was ever taken by the respondents to place the applicant under suspension or to initiate any disciplinary proceedings against him. The letter dated 05.09.86 (annexure A 2) filed by the applicant and relied upon by him to prove that he was placed under suspension, does not show that the respondents had placed him under suspension before his retirement. The existence of this letter is very doubtful and the same has not been admitted by the respondents.

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9. We, therefore, conclude that the present OA has been filed with the ulterior motive mainly to justify his occupation of the railway quarter. It is an ~~example~~ <sup>example</sup> ~~exemplary~~ <sup>R7</sup> of frivolous and baseless litigation. We, therefore, dismiss the OA and impose cost of Rs. 1000/- on the applicant.

  
Member-A

  
Member B

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