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Open Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD.

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Original Application No. 968 of 1993

this the 30th day of April 2001.

HON'BLE MR. S. DAYAL, MEMBER (A)

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Bhagwat Rai, S/o late Sri J.N. Rai, R/o 317/4 Juhi Labour Colony Juhi Kalan Kanpur presently prematurely retired Supervisor-B in Ordinance Equipment Factory, Kanpur.

Applicant.

By Advocate : Sri B.N. Rai.

Versus.

Union of India through Secretary of Defence.

2. General Manager, Ordinance Equipment Factory, Kanpur.

3. The Chairman Ordinance Factory Board, 10-A, Ockland Road, Calcutta.

Respondents.

By Advocate : Km. S. Srivastava.

ORDER (ORAL)

S. DAYAL, MEMBER (A)

This application has been preferred with the prayer to set-aside the order dated 1.3.1993. The petitioner also seeks payment of arrears of salary w.e.f. 1.1.64 as Supervisor Grade-A in accordance with the order dated 11.3.63 and directions to the respondents to treat the petitioner as Supervisor Grade-A w.e.f. 1.1.64 and grant all the consequential benefits.

2. The facts as narrated by the applicant in the O.A. are that he was a diploma holder in leather manufacturing from Government Leather Institute, Kanpur, and was

interviewed for the post of Supervisor Grade-B by the respondents, and was duly selected. When he joined the service on 17.1.1962, he was not posted as Supervisor Grade-B and was appointed as Weaver Grade-B. At the instance of the applicant, the respondents gave appointment on the post of Supervisor Grade-B (Technical) on 21.11.1962. The applicant was not promoted as Supervisor Grade-A despite his satisfactory service as Supervisor Grade-B. The applicant was transferred from SDR Section to SQC Section on 25.3.82 vide factory order no. 683 dated 24.3.82 and was relieved on 25.3.82 to report to Foreman SQC Section. It is claimed that the applicant had reported to the Foreman SQC Section with the transfer order, but he was not permitted to work in SQC Section, nor allotted any seat or work in the SQC Section on 25.3.82. He was also asked to put the signature on the attendance register in a situation where the attendance was marked by punching of cards. The applicant refused to sign the attendance register on 23.12.82, he was served with a show-cause notice, which was replied by him on 17.1.83. The matter was dropped after considering the reply of the applicant and he was directed to report for duty to SQC Section vide letter dated 18.7.83. On 27.6.1984, the applicant was suspended in contemplation of enquiry. The suspension of the applicant was revoked on 6.2.85 and the applicant was posted to PNP Section. After reinstatement, the arrears of salary w.e.f. 27.6.84 to 6.2.85 of the post of Supervisor Technical was, however, not paid to the applicant. A enquiry Officer was appointed on 4.3.85 and after completion of the enquiry, the Enquiry Officer found the applicant not guilty of the charges levelled against him. The disciplinary authority did not agree with the findings of the Enquiry Officer and passed the order of

punishment of compulsory retirement on 24.1.1987. The applicant was issued a show-cause notice on 27.2.87 as to why his pay and allowances over and above subsistence allowance should not be forfeited for the period he was placed under suspension. The order of compulsory retirement was moderated to officiating the applicant as Examiner-B and further the period from the date of compulsory retirement to the date of reinstatement was directed to be treated as dies-non. Thereafter, the applicant filed an O.A. no. 691/88, which was allowed on 22.7.92. The applicant sought the reinstatement on the post of Supervisor Grade-B with arrears of salary and other consequential benefits Pursuant to the order of the Tribunal in O.A. no. 691/88, the penalty of compulsory retirement and subsequent moderation to that of the penalty of reduction of Examiner Grade-B at the minimum of the pay-scale with cumulative effect and treating the period as "Dies-non" from the date of compulsory retirement from service to the date of his reinstatement, were quashed. On the same day, the disciplinary authority decided to start the proceedings afresh from the stage immediately after furnishing a copy of show-cause and enquiry report to the applicant allowing him time to make a representation to that effect. This letter was sent to the applicant with the notice dated 4.11.92. After considering the reply of the applicant, the disciplinary authority again imposed the penalty of compulsory retirement by the impugned order dated 24.1.1987. This punishment was confirmed by the appellate authority by his order dated 1.3.93.

3. The arguments of Sri B.N. Rai, learned counsel for the applicant and Km. S. Srivastava, learned counsel for the respondents have been heard.

4.

The learned counsel for the applicant has stated

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that the applicant was ~~near~~ his superannuation at the time of imposition of penalty of compulsory retirement. The disciplinary authority by order dated 1.3.1993 has also stated as much when they stated that a lenient view has been taken on the mis-conduct of the applicant. Although the applicant was issued a show-cause notice as to why his pay and emoluments beyond the subsistence allowance be not forfeited, but no orders forfeiting the emoluments beyond the subsistence allowance appear to have been passed. The respondents in their Counter reply have mentioned that consequent upon setting aside the old penalty order as well as appellate order, the applicant's pay was to be fixed by the audit authority for which a proposal has already been sent to them for payment of difference of arrear.

#### of the case

5. Under the facts and circumstances, we consider it appropriate to direct the respondents to make the payment of difference of pay to the applicant for the period of his work as well as the other period for which he may have been entitled for payment of his salary on the post of Supervisor Grade-B till the date of compulsory retirement. The applicant should also be allowed to <sup>have</sup> ~~retiral~~ benefits after fixation of his pay and shall be paid within a period of three months from the date of receipt of copy of this order. We do not find a fit case to grant the interest on the ~~retiral~~ benefits, although the learned counsel for the applicant presses for grant of interest on the ~~retiral~~ benefits.

6. The O.A. stands disposed of as above with no order as to costs.

*Rahul Reddy*  
MEMBER (J)  
GIRISH/-

*Sh*  
MEMBER (A)