

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 08th day of JANUARY 2002

Original Application no. 1441 of 1994.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Administrative Member

Shri D.C. Pachauri, retired Station Master,
S/o Late Pt. Devi Dayal Pachauri,
R/o House no. 3/97 Shyam Nagar,
ALIGARH.

... Applicant

By Adv : Sri OP Gupta
Sri D Sharma
Sri KN Kathiyar

Versus

1. The Union of India through the General Manager,
Northern Railway, Baroda House,
NEW DELHI.
2. The Divisional Railway Manager,
Northern Railway,
ALLAHABAD.
3. The Senior Divisional Commercial Manager,
Northern Railway,
ALLAHABAD.

.... Respondents

By Adv : Sri A.K. Gaur

.... 2/-

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O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

By this OA under section 19 of the A.T. Act, 1985, the applicant has prayed that the direction may be issued to the respondents to make payment of sum of Rs. 1,48,120.00 details of which are given in para 4.12 of the O.A. in full and final settlement of the claim. In para 4.12 fifteen items have been mentioned which includes promotional benefits.

2. The facts as per applicant, in short, are that by order dated 24.09.1977 the applicant was removed from the post of Station Master. He challenged this order before Hon'ble High Court by filing WP no. 8965 of 1981, which was allowed on 14.10.1985 and the order of removal was quashed. It was noticed by Hon'ble High Court that the applicant had already attained the age of superannuation on 30.06.1977 and as the applicant had already attained the age of superannuation, there was no question of passing the order of removal subsequent to that date. Thereafter, the applicant was treated as retired employee and was paid retiral benefit. Dispute, however, remained about the period of suspension i.e. from 03.09.1975 to 30.06.1977. The applicant filed a representation claiming regularisation of the suspension period which was rejected by the respondents on 20.08.1986. The applicant then filed O.A. no. 382 of 1988 before this Tribunal, challenging order dated 20.08.1986. The first paragraph of the order of this Tribunal in OA 382 of 1988 mentions, ^{about} reliefs which were claimed by the applicant in the aforesaid O.A.

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The first paragraph is being reproduced below :-

"By this petition filed Under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has sought quashing of the order dated 20.8.86 (Annexure III to the petition) passed by the Respondent No. 3 regularising the period of suspension as suspension and not as duty and has prayed for a direction to the respondent to count the period of suspension from 3.9.75 to 30.6.77 as duty for all purposes and allow him the consequential benefits thereof consisting of full salary and allowances and a further direction to reimburse the applicant for the monetary loss amounting to Rs. 72,196/- including interest @ 12% per annum from 1.7.77 following the date of his retirement on 30.6.77."

The Tribunal vide its order dated 30.8.1993 allowed the OA and ~~gives~~ following direction :-

"In view of the discussion aforesaid, this petition is allowed. The order of respondent no. 3 dated 20.8.1986 is quashed and it is directed that the Competent Authority shall consider and determine the petitioner's entitlement during the period of suspension having regard to the relevant rule contained on Para 2044-A(2) of the Indian Railway Establishment Code."

In pursuance of the above direction of this Tribunal the respondents passed order dated 10.01.1994. The period of suspension was regularised treating him on duty and the applicant has been given benefit arising thereof.

3. Now in the present O.A. the applicant claimed that treating the period of suspension i.e. from 3.9.1975 ^{as on duty,"} to 30.6.1977 the applicant, but for the pendency of the

disciplinary proceedings, would have been promoted and got higher grade of salary and several other benefits which have been enumerated in para 4.12 of the O.A.

The total amount mentioned is Rs. 1,48,120/- .

4. Shri A.K. Gaur, learned counsel for the respondents has submitted that this claim of the applicant by filing fresh OA is barred by limitation and also under principle contained in order 2 Rule 2 of CPC. In short, his submission is that the applicant while filing OA 382 of 1988 should have claimed all the reliefs and the present OA is not legally maintainable.

5. Shri O.P. Gupta, learned counsel for the applicant on the other hand submitted that the applicant had claimed consequential benefits. He also claimed monetary loss amounting to Rs. 72,196/-, but the respondents have not granted the same and the applicant has every right to file fresh OA claiming the amount which has not been paid by the respondents as consequential benefits.

6. We have considered the submissions of the learned counsel for the parties. The relief granted by this Tribunal vide order dated 30.08.1993 was confined to the regularisation of the period of suspension. Though the applicant had claimed consequential benefits and other ~~consequential~~ benefits including amount of Rs. 72,196/-, but the order of this Tribunal is ~~silent~~, which means the relief was refused. The only course open to the applicant

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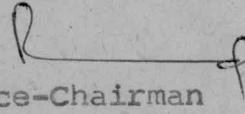
in such circumstances was to challenge the order of this Tribunal, which has not been done. The order has become final, the respondents in compliance of the order, regularised the period of suspension treating the applicant on duty and paid the difference.

7. In view of the aforesaid, in our opinion the applicant is not legally entitled to file a fresh O.A. claiming same relief i.e. promotion etc and monetary benefits. The relief claimed in the OA filed on 16.09.1994, ^{cause of action which arose during} with regard to the period 03.09.1975 to 30.06.1977, ~~the~~ ^{claim} is highly time barred, for which we do not find any cogent explanation. The applicant, thus is not entitled for any relief in this OA. The O.A. is accordingly dismissed.

8. There shall be no order as to costs.



Member-A



Vice-Chairman

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