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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 28TH DAY OF SEPTEMBER, 2000

Original Application No.1031 of 2000

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

R.P.Nigam,a/a 64 years, son of
Late A.P.Nigam,R/o H.No.128/10
Block Y-1, Kidwai Nagar, Kanpur Nagar,
Retired Chief Booking Clerk, Northern
Railway, Kanpur Central, Kanpur.

... Applicant

(By Adv: Shri N.K.NAIR)

Versus

1. Union of India,through the Secretary
Ministry of Railways, Rail Bhawan
New Delhi.
2. General Manager, Northern Railway
Baroda House, new Delhi.
3. Divisional Rail Manager,
Northern Railway, Allahabad.

... Respondents

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

This application u/s 19 of the A.T.Act 1985 has been filed claiming the reliefs that the respondents be directed to properly fix the pay of the applicant as on the date of retirement and to pay the applicant all the arrears of pay and allowances arising therefrom taking into consideration the annual increments,wage revisions,promotion under the next below rule etc and to pay the applicant all due arrears and allowances,bonus etc for the period of involuntary absence of the applicant from duty calculated upto the date of retirement of the applicant may also be treated as the period in service.

The facts giving rise to this application are that the applicant Ram Prasad Nigam was serving as Chief Booking Clerk at Kanpur railway station. He was involved in a case of

embazzlement of an amount of more than rupees five lacs. A criminal case was registered against him which was pending. However, by order dated 13.1.1987 the applicant was dismissed from service. This order of dismissal was challenged in OA No. 1243/87. the application was allowed by order dated 30.11.1992. The operative part of the order reads as under:-

"Accordingly this application deserveds to be allowed and the removal order dated 13.1.1987 is quashed. However, it will be opened for the respondents to hold an inquiry against the applicant in accordance with law within a period of three months from the date of the communication of this order and the applicant shall co-operate with the inquiry. No order as to costs."

As clear from the relief claim it appears that after the order dated 30.11.1992 applicant did not apply for his reinstatement on the post. He retired on 30.6.1994. Thereafter he was served with a memo of charge dated 21.10.1994. This memo of charge was challenged in OA No.201/96. This OA was also allowed by order dated 15.9.1997. The operative part of the order namely paras 11,12 and 13 are being reproduced below:-

Para 11-On the consideration of all these facts, circumstances and the legal positions we come to the conclusion that serving the chargesheet dated 21.10.1994(Annexure A-1) and November 1994(Annexure A-2) are illegal and not sustainable in law. We, therefore, quash the departmental proceedings started by way of serving these two charge sheets.

Para 12-The applicant has also claimed consequent benefits such as payment of salary, promotion etc. We find that these reliefs are in no way connected with the relief of quashment of charge sheet of departmental inquiry. Thus, we do not take them into consideration.

Para-13

The original application is therefore allowed partly. No order as to costs. The stay order dated 26.2.1996 stands vacated.

The applicant then filed an application u/s 27 of the Act read with Sections 14,22 and 17 of the Act and Rule 24 of the CAT(Procedure) Rules, 1987. The prayer made in this application was that the respondents be directed to implement the judgement of the Tribunal dated 30.11.1992 and to pay the applicant benefits arising therefrom including arrears of pay and allowances inclusive of due increment, due promotional benefit, due revision and fixation of pay etc. This application was dismissed by a Division Bench by order dated 25.7.2000.

Now this application u/s 19 of the Act has been filed for the reliefs mentioned above. After hearing counsel for the applicant at length, we are of the opinion that the applicant is not entitled for relief for two grounds. The first ground is that the application is highly time barred. After the order dated 13.1.1987 was quashed by this Tribunal applicant should have made effort to get him reinstated and also for payment of the arrears of salary etc. However, he did not approach the Tribunal for a long time until a memorandum of charge was served on him. There appears no explanation on the part of the applicant for this long delay. The learned counsel for the applicant requested for time for explaining this delay. However, we are not inclined to grant any time for this purpose. The applicant was fully aware about the delay, what he has stated in narration of facts, we have perused it, but we do not find any cogent ground on which basis this long and inordinate delay may be condoned.

The second ground is that the relief claimed in the present OA was specifically claimed in OA 201/96. The relief

was specifically refused, may be for any reason, the applicant did not challenge the order dated 15.9.1997 refusing the ~~same~~ ^{present} relief specifically. In our opinion, the second OA is not legally maintainable. The similar relief was claimed by way of an application u/s 27 of the Act which was rejected by the Division Bench on 25.7.2000.

For the aforesaid two reasons, in our opinion, the applicant is not entitled for any relief. The application is accordingly rejected at admission stage. No order as to costs.

S. Dinesh
MEMBER (A)

VICE CHAIRMAN

Dated: 28.9.2000

Uv/