

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

Original Application No.496 of 2003.

Allahabad, this the 12th day of April, 2007.

Hon'ble Mr. S.K. Dhal, Member-J

Laxman Singh S/o Baldeo Singh,
Aged about 58 years, Ex.Driver,
R/o 63-B/643-A/1-A, New Janta Colony,
Behind Mustafa Quarters, Agra Cantt., Agra.

....Applicant.

(By Advocate :Shri B.L. Kulendra)

Versus

1. Union of India, through General Manager, Central Railway, Mumbai C.S.T.
2. Divisional Railway Manager, Central Railway, Jhanasi.
3. Divisional Accounts Officer, Central Railway, Jhansi.

...Respondents.

(By Advocate : Shri Anil Kumar)

O R D E R

By Hon'ble Mr. S.K. Dhal, J.M. :

The applicant has challenged the order dated 24.10.2002 (Annexure-A-1) on the ground that the reduction of the pension and gratuity is illegal.

2. Briefly stated the case of the applicant is that initially he was dismissed from service in a departmental proceedings and he made an application to the Appellate Authority for reducing the punishment and the Appellate Authority after due consideration reduced the punishment from dismissal to compulsory retirement. Subsequently, he passed an order as per Rule 64 that the applicant is entitled to get 80% pension and 75% DCRG. The applicant has submitted that the authority committed illegality

reducing the pension ~~as~~ ^{to} 80% pension and 75% DCRG but no such order ~~has~~ ^{been} passed when the punishment "dismissal order" was reduced to "compulsory retirement".

3. After hearing the learned counsels and perusal of the documents available on the record, I am not inclined to accept the submissions made on behalf of the applicant. Rule 64 (annexed as Annexure-A-1) reads that in case of a Railway servant compulsory retired from service as a penalty may be granted, by the authority competent to impose such penalty, pension or gratuity, or both at a rate not less than two-thirds and not more than full compensation pension or gratuity, or both admissible to him on the date of his compulsory retirement. In this case ~~given~~ admittedly the first order did not reflect about the ~~part~~ ^{of} pension and gratuity and subsequently, the aforesaid order ~~made~~ ^{was} modified to the extent that the applicant will get 80% pension and 75% DCRG. In my opinion, the order does not suffer from any illegality or irregularity.

4. It is submitted on behalf of the respondents that the applicant did not ~~prev~~ ^{pre} appeal to CMO against the order passed on 24.10.2002, has approached this Tribunal ~~and he has got in case of one~~.

5. The attention of this Tribunal has been invited by the applicant to Rule 312 of Railway Servant (Annexure-A-9) and Rule 23 of Railway Board order of 1994 (Annexure-A-11). In this case the reduction has been made in pursuance ^{to} the exercise of jurisdiction under Section 312 of Railway Board Circular (Annexure-A-9). Sub Rule 2 of Section 314 has been referred to by the applicant to support his stand that there should be no reduction in the pension or gratuity. The said rule reads that ~~when~~ when a pensioner is found guilty of grave misconduct or negligence during his service as a result of departmental or judicial proceedings, the power to withhold or withdraw his pensionary benefits or any part thereof vests with the President. So this provision is not applicable to him.

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6. During the course of the arguments, it is submitted on behalf of the applicant that he had made a representation to the C.M.O. but no action has been taken. This fact was not pleaded in his original application. No material have been placed before the Tribunal to support his stand ~~as~~ ^{as} ~~well~~ such an appeal has been preferred. Even if such application ~~has been~~ ^{has been} preferred the Tribunal had nothing to do when the appellant has argued the case on merits.

7. After hearing the learned counsel for both the parties, I am of the view that the order dated 24.10.2002 passed by respondents does not ~~suffer~~ ^{pass} from any irregularity/illegality or it has been ~~done~~ ^{done} arbitrarily.

8. As per my above findings, there is no merit in the OA, hence, the OA is dismissed at the stage of admission. No costs.

S. J.
Member-J 12/4/2007

RKM/