

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH :: CALCUTTA

MA 72 of 97 (OA No.976/96)

20-11-2001

Present : Hon'ble Mr.S.Biswas, Member(A)
Hon'ble Mr. Shanker Raju, Member(J)

Sunil Kumar Pal

-Vs-

E. Rly

Present for the applicant : Mr.P.C. Das
Present for the applicant : Mr.P.K.Arora

ORDER

Mr.Shanker Raju, Member(J) :

Heard both the parties. The applicant by this OA has sought for retiral benefit, which has been denied to him on account of his removal from service, which has been communicated to him on 26-11-95. The applicant contends that no communication was served on him regarding the Disciplinary Proceeding and by the order of removal he has been deprived from the Pensionery Benefits. It is stated by the applicant that in pursuance of the order dated 26-11-95 he made an appeal to the respondent for setting aside and according to him, which has not been replied to.

2. On the other hand the respondents stated that the applicant has been proceeded under Major Penalty Charge Sheet and the same was sent to his Home Address, but returned undelivered by the Postal Authorities with the remarks 'Not found'. Thus the applicant was proceeded ex parte and he was removed from service. As such the applicant is not entitled for any Pensionery Benefit.

3. Having regard to the rival contentions of the parties, we find from the reply of the respondents that whenever any service notice was effected, the remarks of the postal authority was that the applicant is not found in his address. In view of the Hon'ble Apex Court's decision in D.S.

Karekar & Ors in JT 1998 (6) SC 1 that where the addressee was not available even to the postal authorities, and the registered cover was returned to the sender with the endorsement 'not found', it cannot be legally treated to have been served. However, in the interest of the justice to be accorded to find that there is no challenge to the impugned order of removal. We therefore dispose of the present OA with the direction upon the respondent to furnish a copy of the removal order within 4 weeks to the applicant and the applicant is at liberty to prefer an appeal within 4 weeks thereafter. The respondents are further directed to consider the appeal of the applicant without going into the question of limitation and to pass detailed reasoned and speaking order within 4 weeks thereafter. If the removal order is set aside, the applicant shall be entitled to all pensionary benefits with 10% interest and other consequential benefits. However, if the applicant is still aggrieved, he is at liberty to approach the Tribunal. No costs.

S. Raju

(Shanker Raju)
Member(J)

S. Biswas

(S. Biswas)
Member(A)