

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH.

Date of Order 21.11.1995

O.A. No. 67/1995.

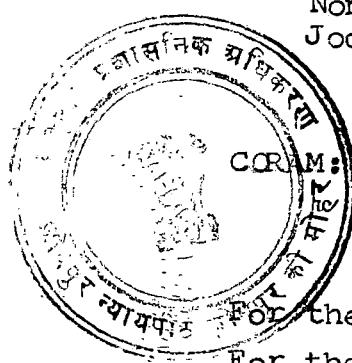
Sultan Singh

.....Applicant.

Vs.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Financial Advisor & Chief Accountant Officer, Northern Railway, Baroda House, New Delhi.
3. The Chief Cashier, Northern Railway, Multi Storey Building, New Delhi.
4. The Divisional Accounts Officer, Northern Railway, Jodhpur.
5. The Divisional Cashier, Northern Railway, Jodhpur.

.....Respondents.



COURT:

For the applicant - Mr. M.S. Singhvi, advocate.  
For the respondents - Mr. R.K. Soni, advocate.

ORDER

(Hon'ble Mr. Rattan Prakash, Judicial Member)

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The applicant herein, Sultan Singh, who retired on 30.11.85 from the post of Jr. Head Shroff with the Respondent - Railway was initially appointed as Cycle Driver (according to the respondents as Trolleyman) on 22.12.45 with the Northern Railway.

2. It is the case of the applicant that while he was working as Jr. Head Shroff/he was placed under suspension vide communication dated 17.9.75 (Annexure A/1) supposedly

on the basis of the registration of a criminal case against him under Section 409 of the IPC. The Trial Court convicted him under Section 409 IPC and sentenced him to two years simple imprisonment and a fine of Rs. 100/-. On appeal he was acquitted by the Appellate Court vide judgment dated 15.12.93 (Annexure A/2). During the suspension period, the applicant was paid half of the salary for 1½ year and thereafter 3/4th of the salary. Meanwhile on superannuation, he was allowed to superannuate on 30.11.85.

3. It is the grievance of the applicant that because of the pendency of the criminal case against him, he was neither given grade increments nor promotion although his juniors were promoted. The representations made and notice of demand of justice given to the respondents having gone futile, he has approached this Tribunal to claim the following reliefs:-

- i) Direct the respondents to release the dues of the applicant which were withheld on account of pendency of the criminal case.
- ii) Direct the respondents to consider the case of the applicant for promotion to higher post above Jr. Head Shroff on and from the date persons junior to the applicant has been considered and grant him all consequential benefits including arrears of salary.
- iii) Direct the respondents to release increments of the applicant from the date of suspension till the date of superannuation with all consequential benefits including payment of arrears.
- iv) Direct the respondents to release full pension of the applicant, grant him facility of commutation and release other retirement dues namely - Death-cum-Retirement Gratuity, Employees State Insurance, commutation of pension, leave

encashment and Bonus etc; and

v) To pay interest @ 24% per annum from the date of acquittal till the date of payment on the aforesaid arrears.

4. On notice being issued, the Application has been opposed by the respondents by filing a counter to which no rejoinder has been filed. Arguments, therefore, were heard at the admission stage with the consent of learned counsel for both the parties.

5. The stand taken by the respondents is that since a criminal case was pending against the applicant and he was acquitted therein only on the basis of benefit of doubt, he is neither entitled for grade increments nor eligible for promotion to higher grade post. It has further been averred that since the applicant was occupying Railway Quarter No. T-177-B, Railway Colony, Jodhpur; he owed to the Railway an amount of Rs. 1,76,992/- for the period between 1.5.85 to 30.9.92 on account of delayed vacation of the Railway accommodation and as per orders dated 17.3.88 of the Estate Officer, Jodhpur (Annexure R/1); out of which amount specified in Para 4.8 (iv) of reply, has been recovered. It has been denied that retiral benefits were withheld by the respondents on account of the pendency of the criminal case, but that they were withheld on account of the aforesaid arrears of rent etc. to be recovered from him and that they are justified in recovering the same.

6. We have heard the learned counsel for both the sides and have examined the record in great detail.

7. The facts being not largely in dispute except relating to the claim made by the respondents for the recovery of rental dues etc. (for which the applicant is reported to have taken a separate action), by the on

point for consideration in this O.A. is:-

"Whether the acquittal of the applicant in the criminal case wipes out all the impediments created in the matter of payment of retiral benefits as also the right to get promoted to Higher post."

8. As stated above, the claim made by the applicant has been resisted by the learned counsel for the respondents with full vigour. It has been urged by the learned counsel for the respondents that mere acquittal of the applicant in the criminal case that too on the basis of being given benefit of doubt, does not entitle him to claim promotion as also grade increments; nor such an acquittal will come to the rescue of the applicant in relieving him of the dues unless he pays all the outstanding dues as ordered by the Estate Officer, Jodhpur.

The learned counsel for the respondents, however, has not been able to cite any authority in support of his above arguments.

9. On the contrary it has been vehemently argued by the learned counsel for the applicant, and that too supported by the dictum of the Hon'ble Supreme Court in the case of Vidya Charan Shukla Vs. Purshotam Lal AIR 1987 SC 547; that acquittal in a criminal case wipes out all the impediments raised on account of conviction and that the applicant is not only entitled for payment of full dues <sup>from</sup> the date of his suspension but that he is also entitled to be given grade increments etc.

10. We have given anxious thought to the arguments of learned counsel of both the parties and we are of the opinion that there is force in the argument of the learned counsel for the applicant and as has been held by the Hon'ble Supreme Court in the case of Vidya Charan Shukla

(supra), all the impediments on account of conviction of the applicant in the criminal case stand wiped out after he has been acquitted by judgment of the Appellate Court dated 15.12.93 (Annexure A/2). The applicant, therefore, is entitled not only for grant of increments as and when they became due to the applicant, but also for the payment of all retiral dues to be given to him in accordance with the rules in force subject to the recovery of any Govt. dues recoverable from him under the rules. The issue raised is answered in the affirmative. Further, the applicant having been acquitted by the competent court, he would further be entitled to be paid interest @ 12% per annum on all arrears of pension till the date of payment. Although the respondents have resisted the claim made by the applicant for payment of interest @ 24% per annum on the arrears payable to him yet in view of the law laid down by Hon'ble the Supreme Court in the case of O.P. Gupta Vs. Union of India and others AIR 1987 SC 2257 and relied upon by the learned counsel for the applicant, the applicant is entitled to be paid interest @ 12% per annum on the arrears of pension till the date of payment.

11. Regarding the claim made by the applicant for promotion to the higher grade post, it is suffice to mention that in the absence of any specific particular in this respect, this prayer cannot be acceded to and is hereby disallowed.

12. For all the aforesaid reasons while allowing the OA partially, the respondents are directed:-

- i) To pay to the applicant all the annual increments as and when the same became due to him and earlier denied because of the pendency/conviction in the criminal case under Section 409 of the IPC.

ii) To pay to the applicant full pension, with facility to grant him commutation and all other retiral dues, namely, Death-cum-Retirement Gratuity, Group Insurance amount, leave encashment and Bonus etc. as per rules.

iii) To pay to the applicant interest @ 12% per annum on the delayed payment of pension from the date of acquittal till the date of actual payment.

iv) Payments as directed under clause (i) to (iii) would be subject to recovery of all Govt. dues against the applicant ~~and~~ as permissible under the rules.

13. The relief claimed for giving promotion to the higher grade post having been disallowed, the O.A. is disposed of with the above direction with no order as to costs.

  
( RATTAN PRAKASH )  
JUDICIAL MEMBER

  
( USHA SEN )  
ADMINISTRATIVE MEMBER

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