

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 31.7.2000.

O.A. No. 09/1998

Som Dutt Sharma S/O Shri Ram Swaroop Sharma C/O Arya Dev Sharma, Model Room Railway Quarter No.32/TSV, Western Railway, Zonal Training Centre, Udaipur. Official Add : Fireman-II at Khamli Ghat, Ajmer Division, Western Rly.

... Applicant

VS

1. Union of India through the Secretary, Ministry of Railway, New Delhi.
2. The Chief Operating Superintendent, Western Railway Church Gate, Mumbai.
3. The Divisional Railway Manager, Western Railway, Ajmer.
4. The Divisional Personnel Officer, Western Railway, Ajmer.

... Respondents

Mr. Prithvi Raj Singh, Counsel for the Applicant.

Mr. S.S. Vyas, Counsel for the Respondents.

COURT :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

Applicant, Som Dutt Sharma, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 21.7.1982 and orders of the Appellate Authority and Revisional Authority and for a direction to the respondents to release the gratuity, Provident Fund other dues in favour of the applicant, and further that the applicant be treated as retired

Gopal Singh

Contd...2

on medical grounds and accordingly to grant ex gratia pension to the applicant. It has further been prayed that the respondents be directed to give ~~appoint~~ ^{ment} to one of his nominees on compassionate ground.

2. Applicant's case is that when the applicant was posted at Khamli Ghat, Ajmer Division, he faced mental problems and, therefore, he remained absent from 20.12.1978 to 08.4.1981. The applicant again fell sick on 03.7.1981, and thereafter he ~~dis~~ not resume his duty. The applicant was removed from service vide order dated 21.7.1982 placed at Annexure A/1. The applicant filed an Appeal against the orders of Disciplinary Authority which was rejected on 28.10.83, and the Revision Petition preferred by the applicant was rejected on 04.04.1986. The applicant was in possession of Railway Accommodation in Palampur, which was vacated by him on 27.1.1989, and the respondents had asked the applicant to deposit an amount of Rs.10743.45 P. on account of rent and electricity charges. It is the contention of the applicant that an enquiry was conducted ex parte and the Appellate Authority and Revisional Authority did not consider the critical position and hardship of the applicant. Since the applicant was mentally sick, he should have been granted medical pension and one of his wards should have been given compassionate appointment as per rules. Feeling aggrieved, the applicant has filed this O.A.

3. In the counter, it has been stated by the respondent that the applicant was removed from service vide order dated 21.7.1982, which was served upon him on 10.8.1982. The Appeal and the Revision Petition preferred by the applicant were also rejected. It is also submitted by the respondent that the application is barred by limitation and, therefore

Leopold

Contd...3

not maintainable because the order of removal was passed on 21.7.1982, appeal was rejected on 28.10.1983 and Revision Petition was rejected on 04.4.1986. Thus, the cause of action had arisen to the applicant on 21.7.82, 28.10.83, 4.4.1986. But the present application has been filed in the year 1998 i.e., 12 years after the date of last cause of action. Moreover, the applicant has not filed any application for condonation of delay. It is, therefore, averred by the respondents that the application is barred by limitation and is liable to be dismissed on this ground alone. It has been further stated by the respondents that the applicant remained absent from duty from 20.12.1978 to 8.4.1981 for which a major penalty chargesheet was issued to the applicant. The applicant again remained absent from 03.7.1981 till the date of his removal from service. Since the applicant was absent through-out the inquiry was conducted ex parte. It has also been submitted by the respondents that medical certificates at Annexure A/2, A/3 and A/4 were issued in the year 1983 after the penalty was imposed upon the applicant vide letter dated 21.7.82. It has also been stated by the respondents that there is no provision for grant of pensionary benefits and gratuity to the employee who has been removed from service and further there is no provision for granting compassionate appointment in such a case.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. It is not in dispute that the applicant remained absent from duty from 20.12.1978 to 8.4.1981 and from 03.7.1981 till he was removed from service. The Appeal and the Revision Petition were rejected on 28.10.1983 and 4.4.86 respectively. This application has been filed on 12.1.1998

Copy of

Contd... 4

21

almost 12 years after the Revision Petition was rejected. Thus, the application is barred by limitation and can be dismissed on this ground alone. On merits also it is seen that the applicant cannot be treated as having retired on medical grounds, since the applicant has not been declared medically unfit by the appropriate authority. Moreover, the medical certificates submitted by the applicant pertaining to the year 1983, while the applicant stood removed from service on 21.7.1982. Since the applicant cannot be treated as having retired on medical grounds, the question of payment of ex gratia does not arise. Similarly, the applicant is not entitled for compassionate appointment of his ward as per rules.

6. As regards other dues payable to the applicant, it is stated by the learned Counsel for the applicant that some payment has been made to the applicant and for balance payment some forms have been sent to the applicant for signatures to settle the payment. In this regard, we do not consider it appropriate to intervene in the matter when the respondents are themselves trying to settle the case.

7. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed.

8. The Original Application is accordingly dismissed with no order as to costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

B.S. RAIKOTE
(B.S. RAIKOTE)
Vice Chairman

Recd copy
S. G. S.
9/8/20

Part II and III destroyed
in my presence on 5-1-2007
under the supervision of
section officer (J) as per
order dated 12/1/2006

Yash
Section officer (Record)

Recd copy
S. G. S.
9/8/20