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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO.54/2008
With
MISC. APPLICATION NO.173/2010**

Date of Decision: 26.11.2010

HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER

Dinesh Kumar Saroj S/o Shri Parma Lal, aged about 54 years, working as Chief Inspector of Ticket under Divisional Commercial Manager, Northern Railway, Allahabad, R/o Quarter No.1-Kh-13, Pawanpuri, Bikaner (Raj.).

.... **Applicant**

For Applicant : Mr. J.K. Mishra, Advocate.

VERSUS

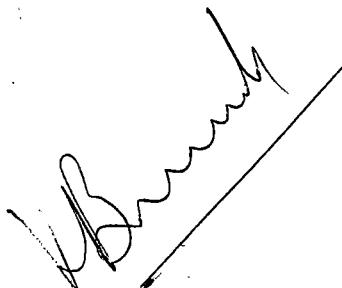
1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Personnel Officer, North Western Railway, Bikaner.
3. Divisional Commercial Manager, North-Western Railway, Bikaner.

.... **Respondents.**

For Respondents 1 to 3 : Mr. Manoj Bhandari, Advocate.

ORDER (ORAL)

The applicant was suspended and while being so he was also transferred from Allahabad to Bikaner Division. But apparently on the ground that he was kept in suspended animation, the Bikaner Division did not accept him. Therefore, the applicant having found himself nowhere had to go back to Allahabad. The Allahabad Division did not revoke the suspension order of the applicant and later on the Bikaner Division dismissed the applicant vide Annexure-



A/5. This dismissal was challenged before a Bench of this Tribunal at Allahabad. The Bench of this Tribunal at Allahabad quashed the removal order vide Annexure-A/6. Thereafter, the applicant was reinstated by the Bikaner Division vide Annexure-A/7. It appears that after joining duty, he filed two representations to the respondents at the Bikaner Division, one for subsistence allowance from 31.07.1985 to 12.11.1994 and second for the promotion to the post of Senior Ticket Collector vide Annexures A/11 & A/12. At this juncture, the respondents have not decided the representations and which prompted to applicant to file two OAs before this Bench, the Jodhpur Bench of this Tribunal. This Bench allowed the OA's vide Annexure-A/13 & A/14. And after the OA was decided (Annexure-A/14), the respondents paid subsistence allowance to him for the period of 31.07.1985 to 12.11.1994 by the Bikaner Division. The applicant was apparently promoted by Allahabad Division because the applicant was transferred to Allahabad. It appears that before allowing the O.A. of the applicant, a chargesheet for major penalty was decided vide Annexure-A/15 and applicant was exonerated from the charges. It was also proved vide para 1343 of the Indian Railway Establishment code and fundamental Rule 54 when a person is reinstated on his exoneration of the charges leveled against him, the full wages has to be paid. Therefore, the applicant had approached this Tribunal for full wages to be paid to him.

2. The Hon'ble Apex Court in the case of **Union of India Vs. K.V. Jankirman reported in AIR 1991 SC 2010** has categorically



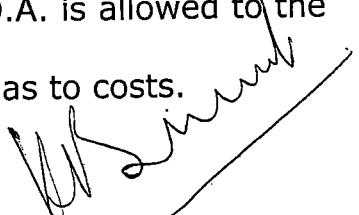
held that on an exoneration of an employee in criminal/disciplinary proceedings, denial of benefits of promotional posts are not permissible. Therefore, the applicant is entitled to get all the consequential benefits mandatory and otherwise following out of his exoneration.

3. But the learned counsel for the respondents has raised an objection regarding territorial jurisdiction as per Section 6 of the CAT (Procedure) Rules, 1987, he would say that an application ought to have been filed by the applicant before the Bench of Allahabad of this Tribunal and not before the Jodhpur Bench. He would also say that the back wages, referred to a period, is not covered by the process of limitation and therefore, hence on those grounds the O.A. is not maintainable. The Section 6 of the CAT (Procedure) Rules, 1987 said that an application shall ordinarily be filed by an applicant with the Registrar of the Bench within the applicant is posted for the time being, or the cause of action, wholly or in part, has arisen. There cannot be any doubt that the cause of action has arisen at Jodhpur Bench jurisdiction. In regard to the delay, it can be seen that the period in dispute are covered by the legal proceedings pending before both the Benches at Jodhpur and Allahabad and therefore, the delay has occurred. Accordingly, M.A. No.173/2010 for condonation of delay, is allowed. After being the cause of delay, the respondents cannot be allowed to state such reason to deny the benefits to an employee, therefore, these two



grounds are not held to be appropriate and adequate to deny the claim of the applicant.

4. After having heard both the counsel, I am of the view that the entire period in question while the applicant was suspended, following the interaction, as stated above, now has to be regularized. The applicant is entitled to get all the mandatory and other benefits flowing out of such regularization. The respondents shall prepare a calculation statement of arrears entitled to by the applicant within a period of two months from the date of receipt of a copy of this order, and shall serve the same on the applicant and 15 days thereafter, the applicant shall file objection, if any, on the calculation whether it is quantum related or method of calculation related and the competent authority shall within one month thereafter shall decide the same and the amount should be paid to the applicant within further period of one month. If the payment is delayed beyond the additional one month's time as stipulated above then the interest @ 15% per annum for the entire amount till the payment is made shall be payable. Thus, the O.A. is allowed to the extent indicated above. There shall be no order as to costs.


[Dr. K.B. Suresh]
Judicial Member

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