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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application 47/2010

Date of Order : 11.01.2012

CORAM: HON'BLE MR. SUDHIR KUMAR, MEMBER (A)

Inderjeet Yadav S/o Shri Ram Das Yadav aged about 55 years R/o C/o Rajendra Kumar Chopra, Plot no. 19 A, Gali No. 2, Behind Dev Narayan Mandir, Bhagat-Ki-Kothi, Jodhpur, last employed on the post of MCC (Material Chasing Clerk) in Bridge Organization, Jodhpur, erstwhile Northern Railway.

.....Applicant.

By Mr. A.K.Kaushik, Advocate.

Versus

- 1- Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
- 2- Chief Engineer (Bridge), Northern Railway, Baroda House, New Delhi.
- 3- Dy. Chief Engineer (Bridge), Northern Railway, Tilak Bridge, New Delhi.
4. XEN (Bridge), Line-I, Tilak Bridge, Northern Railway, New Delhi.

..... Respondents


By Mr. Kamal Dave, Advocate.

ORDER (ORAL)

The applicant of this case was a Railway employee who was found involved along with some others in mis-appropriation of Railway properties and for wrong delivery of consigned goods. The Special C.B.I. Court convicted the applicant in Criminal Case No. 20/1998 on 31.01.2003. He approached the Hon'ble High Court, and appealed against the sentence, which appeal was admitted by the Hon'ble High Court, and the sentence was suspended, pending finalization of his appeal.

2. However, in view of the conviction of the applicant by the Special C.B.I. Court, the respondents initiated disciplinary action against him, and Show Cause Notice dated 13.03.2003 was issued to him, and after receiving his reply to the same, and keeping in view his conviction in the criminal case and other factors, including the factum of moral turpitude, the competent Disciplinary Authority ordered his dismissal on 24.05.2003 (Annex.A/4) by invoking powers under Rule 14 (1) of the Railway Servants (Discipline and Appeal), Rules, 1968.

The applicant filed an appeal against the order of his dismissal, which was also rejected by the Appellate Authority, vide order dated



03.10.2003 (Annex.A/5). Thereafter, a Revision Petition was also submitted, which also apparently came to be rejected vide Revisional Authority's order dated 27.02.2004. The applicant then moved a mercy petition addressed to the President of India, but that also came to be rejected vide order dated 30.03.2006, and, this was communicated to the applicant by letter dated 05.06.2006.

3. Since the dismissal from service had become final, the applicant submitted an appeal on 16.10.2008 for grant of compassionate pension through Annex.A/6. The Scheme dated 04.11.2008 for grant of Compassionate Allowance etc. has been produced by the applicant at Annex.A/7 of the O.A. Finally, the order rejecting his request dated 16.11.2008 for compassionate allowance and gratuity was passed by the impugned Annex. A/1 dated 15.11.2008. The applicant has filed this OA seeking reliefs by way of a direction to the respondents for grant of compassionate allowance as per the rules, and all consequential benefits, as well as any other orders and directions in the interest of justice, and costs.

4. On the other hand, the respondents have in their reply pointed-out that as is apparent from Annex.A/7 filed by the applicant himself, the award of compassionate allowance does not have to be considered if the Railway servant had been dishonest which was the sole ground for his removal / dismissal . They have submitted that even though his criminal sentence has been temporarily suspended by the Hon'ble High Court, that has no relevancy in so far as the relief claimed by the applicant through this OA, as suspension of the sentence extends no right in favour of a convicted employee. They have pointed-out that the applicant was convicted in a case where allegations were of misappropriation, involving moral turpitude, and conspiracy to cheat, and dismissal on such grounds disentitles the dismissed Railway servant from any such benefits which may be admissible to other



~~11~~ Railway employees, under the Compassionate Allowance Scheme, who may not have under-gone conviction.

5. The respondents have, therefore, justified passing the impugned orders dated 15.11.2008 at Annex.A/1, and have further pointed-out that there is a delay on the part of the applicant even in filing this OA, in as much as this OA was filed on 09.03.2010 against the order dated 15.11.2008, and have submitted that under Section 21 of the Administrative Tribunals Act, 1985, this Tribunal may not entertain a delayed application, when it is filed beyond the period of limitation of one year from the date of final order, for invoking the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

6. Heard. On careful consideration of the facts of the case I am convinced that applicant's case has been considered properly by the respondent-authorities, by the Disciplinary Authority, by the Appellate Authority and the Revisional Authority, at every stage, earlier, and that his request for compassionate allowance has also been considered by the authorities as per the rules prevalent in this regard. The applicant therefore does not have any case on merits. The respondents are also correct in further pointing-out that the case is time barred also, and this Tribunal ought not to entertain the delayed application.

7. Therefore, on both these grounds of delay, and on merits, the O.A. is dismissed. But, in view of the advanced age of the applicant, on a compassionate ground, there shall be no order as to costs.


(Sudhir Kumar)
Administrative Member