

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.OA 457 of 97

Date of order : 8.12.2004

Present : Hon'ble Mr.Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr.M.K.Mishra, Administrative Member

TINKARI SAHA

VS

UNION OF INDIA & ORS.

For the applicant : Mr.P.C.Maity, counsel
Mr.T.K.Biswas, counsel

For the respondents: Ms.U.Dutta(Sen), counsel

O R D E R (ORAL)

Mukesh Kumar Gupta, J.M.

This is the second round of litigation.

2. On the earlier occasion the applicant instituted OA 1177/90 challenging the Departmental Proceeding initiated against him, the penalty of compulsory retirement imposed by the Disciplinary Authority and as upheld by the Appellate Authority. The applicant's various contentions inter alia including the major penalty charge sheet was issued by an incompetent authority, non-supply of documents demanded by him : ex parte enquiry conducted without providing adequate opportunity to defend : and other notices were rejected by this Tribunal while disposing of the aforesaid OA on 23.12.94. Since it was noted that the Appellate Authority's order has not been passed by the competent authority, the said appellate order dated 27.8.90 was quashed and set aside holding that the same was issued by the incompetent authority and therefore the matter was remanded to the Appellate Authority to decide the appeal after offering personal hearing to the applicant. Pursuant to the aforesaid order dated 23.12.94, which was upheld by this Tribunal while dismissing the applicant's RA 14/95 on 12.12.95, the Appellate Authority i.e. General Manager passed a fresh appellate order dated 12.9.96 holding that since the applicant was custodian of relevant documents and in charge of scrutiny/checking before issue of medical memo, he cannot escape the responsibility for the charges levelled against him. Accordingly the Appellate Authority did not find any reason to change the



punishment order imposed upon the applicant. It is noticed that the applicant joined as clerk on 18.9.57 and was to attain the normal age of superannuation on 31.8.91. The penalty of compulsory retirement was imposed upon him vide order dated 18.3.90.

3. In the present application the applicant once again challenged the impugned charge sheet dated 5/10.4.95, Enquiry Report dated 31.10.96, order of compulsory retirement dated 24.2.90 retiring him w.e.f. 18.3.90 as well as seeking direction to reinstate him with all consequential benefits as well as to release post-retirement complementary Railway passes and packaging allowances.

4. We heard the ld.counsel for both sides. No arguments were advanced about the authority or otherwise about order dated 12.9.96. A perusal of the relief clause shows no such order has even been impugned in the present application. No arguments were advanced during the course of hearing as to how the order dated 12.9.96 suffers from any illegality, arbitrariness or irregularity. As far as the question of release of post-retirement complementary passes and packaging allowances is concerned, the respondents in their reply in para 5 at page 4 have taken specific stand that the same was withheld for unauthorised occupation of Railway quarters as per Estt. Srl.No. 141/82 and has nothing to do with the present case.

5. In view of the above, we do not find any justification to interfere with the Appellate Authority's order dated 12.9.96. As far as other questions like challenging the Enquiry Report and order of compulsory retirement are concerned, we find no scope of interfering in the present case. So far as the packaging allowance is concerned it is barred under Rule 10 of the CAT (Procedure) Rules, 1987. Accordingly the OA is dismissed. No order as to costs.


MEMBER(A)

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MEMBER(J)