

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.324/2000.

Monday this the 10th day of June 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

R.Gopalakrishna Pillai,
S/o Velayudhan Pillai,
Retired Deputy Chief Yard Master,
Southern Railway, Shornur,
residing at: "Reshma", Nedungottur,
Shornur-1. Applicant

(By Advocate Shri T.C.Govindaswamy)

Vs.

1. Union of India represented by the
Secretary to the Government of India,
Ministry of Railways, Rail Bhavan,
New Delhi.
2. The Chief Operations Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Madras-3.
3. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O., Madras-3.
4. The Senior Divisional Personnel Officer,
Palghat Division, Southern Railway,
Palghat. Respondents

(By Advocate Smt. Sumathi Dandapani)

The application having been heard on 10th June, 2002
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant who was a Deputy Chief Yard Master, Southern Railway, Shornur was removed from service after a major penalty proceeding w.e.f.30.4.88. An appeal submitted by him was rejected. The applicant filed O.A.K-530/88 challenging the penalty of removal from service. The Tribunal disposed of the application directing the Appellate Authority, General Manager to reconsider the Appeal and pass appropriate orders.

On

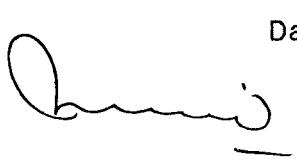
Accordingly, the General Manager disposed of the Appeal modifying the penalty as to one of compulsory retirement w.e.f. 30.4.88. The applicant challenged the order by filing O.A. 895/90 before the Tribunal. The Tribunal allowed the application and set aside the order of compulsory retirement with liberty to the Railway Administration to resume the departmental proceedings from the stage of submission of the enquiry report to the applicant. The matter was carried up to the Apex Court by the Union of India and Railway Administration. In the meanwhile an order was issued by the Railway Administration placing the applicant under deemed suspension w.e.f. 30.4.88 itself. The Apex Court allowed the Appeal and upheld the order of compulsory retirement. Thereafter, an order was issued reviving the compulsory retirement dated 30.4.88. It appears that thereafter an order was issued by the 2nd respondent in partial modification of the office order dated 19.9.97 stating that the compulsory retirement imposed on the applicant would take effect from 3.10.97, the date on which the orders were passed by his predecessor and not on 30.4.88. The applicant has, therefore, filed this application for a declaration that the applicant is entitled to have the entire period of service from 30.4.88 to 3.10.97 treated as duty for all purposes, including for drawal of annual increment, calculation of pension and other retiral benefits and for a direction to the respondents accordingly and for a direction to the respondents to grant the applicant all consequential benefits arising out of such declaration and for a further declaration that he is entitled to have his pension and other retiral benefits calculated on the basis of the replacement stage in the replaced scale, as per the recommendations of the Vth Central Pay Commission and for consequential directions to the respondents to grant and pay the same accordingly.

2. The respondents resist the claim of the applicant and have filed a reply statement. They have brought on record an order dated 23.4.99 to show that the competent authority has not treated the period between 30.4.88 and 3.10.97 as service for any purpose.

3. On a careful scrutiny of the application and the material placed on record, we do not find any basis for a declaration as sought for in this application. The applicant has been compulsorily retired w.e.f. 30.4.88 which has been upheld by the Apex Court. Whatever order had been passed in between during the pendency of the Appeal ⁱⁿ ~~by~~ the Apex Court, would not be of any consequence, as the compulsory retirement of the applicant w.e.f. 30.4.88 has been upheld by the Apex Court. The applicant, therefore, is not entitled to have any period after 30.4.88 counted as service. The applicant's services ceased with his compulsory retirement on 30.4.88. The orders passed reinstating the applicant and placing him under deemed suspension etc. were without prejudice to the respondents contention before the Supreme Court. On the basis of the order dated 23.4.99 Annexure A-1, ^{that} the compulsory retirement would take effect on 3.10.97, the applicant cannot claim that revised pay scale w.e.f. 1.1.96 would apply to him because he has not joined duty after 30.4.88.

4. In the light of what is stated above, the application which is devoid of merit, is dismissed. No costs.

Dated the 10th June, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures :

1. A-1: A true copy of the order bearing No.P(A)94/Misc/124 dated 23.4.99 issued by the 2nd respondent.
2. A-2: A true copy of the representation dated 10.5.99 submitted by the applicant to the 3rd respondent.
3. A-3: A true copy of the letter No.J/P.626/VIII dated 28.2.2000 issued by the 4th respondent.
4. A-4: A true copy of the Railway Board Order Bearing No.R.B.E.No.142/97 dated 5.11.97 issued by the Railway Board.

Respondents' Annexures:

1. R-1: True copy of Chief Personnel Officer, Southern Railway, Madras letter No.P(A)94/Misc./124 dated 12.98/23.4.99.

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