

Central Administrative Tribunal, Lucknow Bench, Lucknow

ORIGINAL APPLICATION No.230/2004

This the 31st day of July, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Mohd Shafi aged 60 years, S/o Late Mohd. Nabi R/o D-53 Sarvoday Nagar, Lucknow.

.....Applicant

By Advocate: Sri M.A. Siddiqui.

Versus.

1. Union of India through the General Manager, N.E. Railway Gorakhpur.
2. The D.R.M., North Eastern Railway, Ashok Marg, Lucknow.
3. The Divisional Personnel Officer, North Eastern Railway, Ashok Marg, Lucknow.

.....Respondents

By Advocate: Shri S. Verma.

ORDER

By Ms. Sadhna Srivastava, Member-J

The applicant is aggrieved by the action of the respondents in not paying the amount of gratuity i.e. Rs. 1,91,786/- alongwith other pensionary benefits on his retirement from the post of Commercial Superintendent Grade-II, Gonda on 31.01.2004.

2. The facts are that Goods Superintendent, North Eastern Railway, Gonda by letter dt. 11.01.2004, informed about the disputed debits of Rs, 22,29,118/- at Gonda station pending since November, 2003. The said letter has been filed as Annexure C-1 to the Counter Affidavit of respondents. In view of the said letter, it had to be decided how far and to what extent the debits stood against the applicant. Since the



applicant retired on 31.01.2004, the respondents temporarily withheld the gratuity amount till the responsibility was fixed for commercial debits of huge amount as mentioned above. The applicant did not allow the respondents to settle the matter. Instead, he chose to rush to the Tribunal by filing this OA on 26.05.2004, which was admitted also on 30.07.2004. The prayer of the applicant is to quash the order dt:31.01.2004, as contained in Annexure-A-1.

3. It may be mentioned at the outset that it is not a case where the respondents have taken decision to withhold the gratuity. They have only deferred the payment of gratuity till the enquiry is completed. The enquiry is as to whether the applicant is responsible for commercial debits ^{or} part of it, if so, as to what extent is to be done by issuing a show cause notice. However, the respondents were made to hold their hands in view of the provision as contained in sub section (4) of Section-19 of Administrative Tribunal Act, 1985, which reads as under:-

"(4). Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules "

4. The result is that the period from 30.07.2004 till date has been wasted. No enquiry could be made during this period i.e. no show cause notice could be issued to the applicant. The respondents as mentioned above have not been able to ascertain the liability, if any, on the part of the applicant for commercial debits pending at Gonda Station as alleged in letter dt.11.01.2004 Annexure-C-1. The instant case is not one where the gratuity due to the applicant has been



withheld finally. The respondents themselves say that they have to apply their mind in regard to the applicant's liability in respect of commercial debits. In the circumstances, it is not a case of violation of principles of natural justice. Once, the applicant filed the instant case and it was admitted also, the respondents were prevented by virtue of the provision of Section-19 (4) of Administrative Tribunal Act, 1985 to issue a show cause notice.

5. In view of the above facts the only relief due to the applicant at this stage is to direct the respondents to issue a show cause notice and finally determine the liability of the applicant, if any, for commercial debits. The exercise shall be completed by the respondents within three months from the date of receipt of the certified copy of this order by passing a reasoned and speaking order.

6. The judgment of Jaipur Bench of the Tribunal in the case of **Raghubir Singh Verma Vs. Union of India & Others, in O.A.No.114/1992 decided on 18.11.1992** relied upon by the applicant is not applicable to the facts of this case where final order in respect of gratuity has not yet been passed. The OA is accordingly disposed of as above. No order as to costs.


(Sadhna Srivastava)
Member-J

Amit/-