

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

05/11/09

Present : Hon'ble Shri M. Kanthaiah, Judicial Member  
and  
Hon'ble Dr. A.K. Mishra, Administrative Member

R.A. NO. 37 OF 2009 IN OA 186 OF 2005

1. Union of India through the  
Secretary to the Ministry of Railways  
Government of India, New Delhi,
2. Divisional Railway Manager,  
North Eastern Railway, Lucknow,
3. Chief Mechanical Engineer,  
North Eastern Railway, Gorakhpur
4. Senior Divisional Mechanical Engineer(Diesel)  
North Eastern Railway, Gonda
5. Divisional Mechanical Engineer(Diesel)  
North Eastern Railway Gonda
6. Assistant Mechanical Engineer(Diesel)....Applicants in  
North Eastern Railway Gonda RA/respondents in  
OA186/05

By Advocate Shri Prashant Kumar

-Vs-

Magan Behari, aged about 60 years  
son of Shri Lal Bahadurshing  
resident of Mahipat Singh  
Purwa Post Office, Chandawatpur  
District -Gonda..

... Respondent in  
RA/Applicant in OA

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(Order pronounced by the Hon'ble Shri M. Kanthaiah, Member (J) )

The respondents have filed review Application under Rule 17 of CAT (Procedure) Rules 1987 for review of the order dated 20.1.2009 in OA 186 of 2005 on the following grounds,

(I) The impugned punishment order dated 16.12.2002 could not be implemented because of enforcement of earlier punishment order dated 19.1.2001 with effect from 1.10.2001 to 30.9.2003.

(II) The Tribunal under the mistaken notion that the punishment order dated 16.12.2002 had been earlier imposed upon the applicant, had obviously set aside the said punishment with all consequential benefits but in fact the said impugned order dated 16.12.2002 had never been enforced/imposed and as such the question of payment of consequential benefits does not arise.

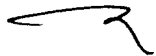
2 This matter has been taken for disposal under circulation.

3 The brief facts of the case are that the applicant filed the main OA 186/05 against the respondents with a prayer to quash the punishment order dated 11.10.2002(Annexure A-1), 16.10.2002(Annexure A-2), 25.1.2003(Annexure(A-3) and 10.12.2003 (Annexure A-4) passed by respondents 6,5,4 and 3 respectively and also for a direction to the respondents to re-fix the entire pensionary benefits of the applicant on the basic pay of Rs.5200/- along with arrears thereof and for refund of the amount of Rs.4000/- which was deducted from the Bonus paid to the applicant and also for refund of Rs.2200/- which was deducted from the retiral benefits of the applicant on the ground that the punishment of stoppage of increment cannot be given without holding an enquiry under Rule 11(2) of Railway Servants (Disciplinary and Appeal) Rules, 1968 since he was going to retire shortly.

4. After completion of pleadings and after hearing both sides the Tribunal passed order on 20.1.2009 with a result the impugned penalty order dated 16.12.2002(Annexure A-2) and order dated 25.1.2003 (Annexure A-3) and order dated 10.12.2003(Annexure A-4) issued by the respondent No.5,4 and 3 respectively are set aside and the applicant is also entitled for all consequential benefits. Thereafter the respondents have filed this Review Application on the ground that the authorities have not enforced the impugned punishment order dated 16.12.2002(Annexure A-3) and in such circumstances granting of any consequential benefits does not arise and thus they sought for review of the orders of the Tribunal dated 20.1.2009.

5. Admittedly it is not the case of the respondents in respect of non enforcement of the impugned order dated 16.12.2002(Annexure A-2) in their counter in the main OA and without taking such a plea, it is not open to the respondents to take such objection by way of review application. Further the respondents have also not shown any of the reasons for non furnishing of such information on the earlier occasion. In the main OA it is the specific case of the applicant that in pursuance of such penalty order dated 16.12.2000 the authorities have also deducted some of the amount from his bonus and also retiral benefits and in those circumstances this Tribunal gave finding granting consequential relief. As such the respondents are not justified for seeking review of the orders on the ground that there was no necessity for grant of any consequential relief.


6. Admittedly the applicant herein who is the respondents in the main OA has filed this RA and the scope of Review as per Order XLVII Rule 1 of CCP is very limited. The Tribunal can interfere with its order for




review in case of some mistake or error apparent on the face of the record or for any other sufficient reason, but in the instant case there are no such circumstances. The applicant also has not furnished any other circumstances for not bringing to the notice of the Tribunal in respect of non enforcement of the order dated 16.12.2002 and if the same was brought to the notice of the Tribunal, there was no necessity for giving any finding on such issue.

The grounds taken by the applicant in this review application are to be raised by way of an appeal but not within the scope of review and as such there are no merits in the claim of the applicant/respondents.

In view of the above discussion there are no merits in the claim of the applicant /respondents for review of the orders of this Tribunal dated 20.1.2009 and as such the RA is liable to be rejected. In the result the RA is rejected.

  
(Dr. A.K. Mishra)  
(Member(A)) 25/11/09

  
(M.KANTHAIAH)  
Member(J)

copy of order  
dated 5-11-2009  
brings  
11-11-2009