

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 14 SEP 1988

APPLICATION NO. 674 / 88(F)

W.P. NO. _____

Applicant(s)

Shri A. Sunderraj Naidu
To

Respondent(s)

V/s The Chairman, Railway Board, New Delhi & 4 Ors

- | | |
|---|---|
| <p>1. Shri A. Sunderraj Naidu
Goods Supervisor (Retired)
Southern Railway
S.N. Palya, Near Sira Gate
Tumkur - 572106</p> <p>2. Shri S.K. Srinivasan
Advocate
No. 10, 7th Temple Road
15th Cross, Malleswaram
Bangalore - 560 003</p> <p>3. The Chairman
Railway Board
Rail Bhavan
New Delhi - 110 001</p> <p>4. The Executive Director(Establishment)
Railway Board
Rail Bhavan
New Delhi - 110 001</p> | <p>5. The General Manager
Southern Railway
Headquarters Office
Park Town
Madras - 600 003</p> <p>6. The Chief Personnel Officer
Southern Railway
Headquarters Office
Park Town
Madras - 600 003</p> <p>7. The Divisional Railway Manager
Southern Railway
Bangalore Division
Bangalore - 560 023</p> <p>8. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building
10th Cross, Cubbonpet
Bangalore - 560 002</p> |
|---|---|

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 5-9-88.

Encl : As above

[Signature]
For DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH; BANGALORE

DATED THIS THE FIFTH DAY OF SEPTEMBER, 1988

PRESENT: HON'BLE SHRI P. SRINIVASAN

.... MEMBER (A)

HON'BLE SHRI CH. RAMAKRISHNA RAO

.... MEMBER (J)

APPLICATION NO. 674/88

Shri A. Sunderraj Naidu,
Goods Supervisor (Retired),
Southern Railway,
S.N. Palya, Near Sira Gate,
TUMKUR.

Applicant

(Shri S.K. Srinivasan.....Advocate)

Vs.

1. Union of India by
The Chairman, Railway Board,
Rail Bhavan,
NEW DELHI - 110 001.
2. The Executive Director (Establishment),
Railway Board,
Rail Bhavan,
NEW DELHI - 110 001.
3. The General Manager,
Southern Railway,
Head Quarters Office,
Park Town,
MADRAS - 600 003.
4. The Chief Personnel Officer,
Southern Railway,
Head Quarters Office,
Park Town,
MADRAS - 600 003.
5. The Divisional Railway Manager,
Southern Railway,
Bangalore Division,
BANGALORE - 560 009.

Respondents

(Shri M. Sreerangaiah....Advocate)

This application having come up for hearing
before this Tribunal to-day, Hon'ble Shri P. Srinivasan,
Member (A), made the following :-

R. S. Sreerangaiah

ORDER

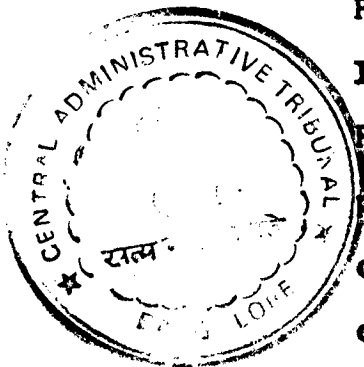
The applicant before us was working as a Goods Supervisor at Tumkur in the Southern Railway from where he retired on 31-8-1982. In 1984, departmental proceedings were initiated against him by a memorandum dated 10-2-1984 in respect of four charges set out therein. An Inquiry Officer (IO) was appointed who, we understand, has submitted his report. On the basis of the said report, the Disciplinary Authority, agreeing with the findings of the IO holding the applicant guilty of the charges, has proposed to impose the penalty of recovery of Rs. 148/- per month from the pension of the applicant for a period of five years. This proposal was conveyed to the applicant by a memorandum dated 6-2-1986. He has submitted his reply thereto, but final orders on penalty have not been passed till today. We are told by the learned counsel for the respondents that the matter is under correspondence with the Union Public Service Commission (UPSC). However, from the date of his retirement, the applicant is being paid a provisional pension, but gratuity and other retirement benefits due to him have not been paid to him so far.

2. Shri S.K. Srinivasan, learned counsel for the applicant submits that there was no justification for withholding gratuity, encashment of utilised leave and security deposit of Rs. 300/- to the

P. Srinivasan

applicant. The disciplinary proceedings had reached the penultimate stage in 1986 as soon as the Disciplinary Authority had, by his memorandum dated 6-2-1986, proposed imposition of penalty on the applicant. The memorandum provided for recovery of Rs. 148/- per month from the applicant's pension and does not speak of any deduction to be made from his gratuity or other retirement benefits. This being so, the respondents were obliged to settle all the dues of the applicant at least by March 1986 which they have not done so far. He prayed that the respondents be directed to pay the applicant his gratuity, encashment of earned leave and security deposit immediately. He also complained that due to the prolonged proceedings against the applicant, he had not been able to commute a part of his pension and as a result, he is suffering hardship. He has to marry off his daughter for which he does not have resources.

3. Shri M. Sreerangaiah, learned counsel for the respondents, submits that during the pendency of the disciplinary proceedings, no gratuity could be paid to the applicant under rule 2308A of the Railway Pension Rules printed at page 2309 of the Indian Railway Establishment Code, Volume II, 5th Reprint. The respondents are unable to make payment of other retirement benefits like encashment of leave because they have to wait for the advice of the UPSC about the quantum of penalty to be imposed on the applicant since the charge levelled



[Handwritten signature]

against the applicant relates to loss said to have been occasioned by his negligence. He, therefore, submitted that the application should be dismissed. He also submits that this application is premature since the penalty proceedings against the applicant are still pending and the position ^{as} ~~is~~ to the quantum of retirement benefits (including pension, gratuity, etc.) payable to him will be known only when these proceedings are concluded.

4/3 We have considered the rival contentions carefully. We must observe that Rule 2308A of the Railway Pension Rules does indeed prohibit payment of gratuity until the conclusion of a departmental or judicial proceedings instituted against a railway servant under rule 2308 of the said Rules and formal orders are issued thereon. Shri Srinivasan submitted that this prohibition would apply only if the charge involved recovery of loss from ~~the~~ ^Y gratuity also. We find no such qualification in the rule which is clear in its import. That being so, we are unable to direct respondents to pay the applicant the gratuity amount immediately. However, when the penalty proceedings reached the stage of issue of a show cause notice for imposition of penalty in February 1986, we fail to understand why they should not have been completed by now, ^H ~~for~~ more than two and half years later. This means that the applicant is kept guessing and is under a Democle's sword indefinitely. This also blocks whatever monies may become due to him for

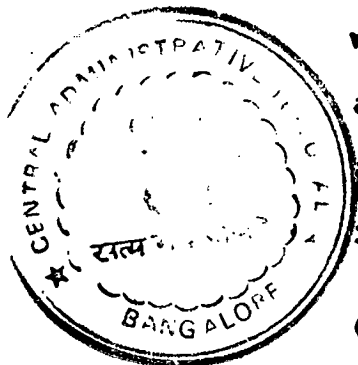
P. Srinivasan

a long period putting him to hardship. We would, therefore, direct the respondents to finalise the order in respect of the disciplinary proceedings as expeditiously as possible but in any case not later than 31-12-1988 and thereafter settle all dues of pension and gratuity due to the applicant within a month thereafter. The respondents should also consider the question of interest payable for delayed payment of pension and gratuity particularly bearing in mind that show cause notice for imposition of penalty was issued on 6-2-1986.

5. We, however, find no reason why the amount due to the applicant by way of encashment of earned leave and by way of return of security deposit should not be paid to him immediately. Shri Sreerangaiah submitted in this context that till the decision of the UPSC is known as to the quantum of penalty or recovery to be made from the applicant, it will, be difficult for the respondents to pay any dues particularly when the charge related to the loss caused to the railways by the applicant's negligence. We, however, feel that in view of the penalty proposed by the disciplinary authority, withholding of a part of the pension and the whole amount of gratuity would be sufficient to meet any liability that may be imposed on the applicant in the disciplinary proceedings.

6. In the result, we pass the following orders:-

[Handwritten signature]



(1) The respondents will bring the Departmental Proceedings against the applicant to a conclusion by passing appropriate orders as early as possible, but in any case not later than 31-12-1988 and the dues of the applicant by way of pension and gratuity including commutation of pension to which the applicant is entitled should be settled within one month thereafter.

(2) The respondents will pay to the applicant immediately within a period of one month from the date of receipt of this order the amount due to him by way of encashment of earned leave and return of security deposit.

7. The application is disposed of on the above terms but in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
(P. SRINIVASAN)
MEMBER (A)

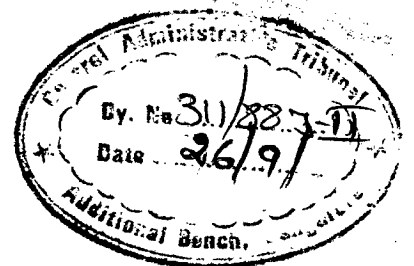
Sd/-
(CH. RAMAKRISHNA RAO) S. 7. 88
MEMBER (J)

TRUE COPY

[Signature]
14/8
For DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

भारत सरकार

रेल मंत्रालय (रेलवे बोर्ड)



सं. ई० (जी०) एल० एल० 3 — 6 (285 & 286) नयी दिल्ली दिनांक 20/9/88

सेवा में,

The Registrar

CAT.

Bangalore

विषय—

A. No. 674/88 (B)

A. Sunderaraj Naidu

vs.
CRB 208.

महोदय,

उपर्युक्त विषय पर आपके तारीख के सम्मन/आदेश के सम्बन्ध में मुझे यह सूचित करने का निर्देश हुआ है कि महाप्रबन्धक S. R. Jay इस मामले को निबटाने में सक्षम प्राधिकारी हैं। इसलिए विचाराधीन सम्मन/आदेश आवश्यक कार्रवाई हेतु उन्हें भेज दिये गये हैं।

भवदीय

संलग्न : कुछ नहीं।

जगदीश चन्द

कृते सचिव, रेलवे बोर्ड

सं. ई० (जी०) एल० एल० 3 — 6 (285 & 286) दिनांक 20/9/88

अदालत के सम्मन/आदेशों सहित एक प्रति महाप्रबन्धक, को आवश्यक कार्रवाई हेतु अग्रेषित।

Southern Railway

इस मामले में सुनवाई की तारीख है।

संलग्न : यथोक्त।

कृते निर्देशक, स्थापना
रेलवे बोर्ड