

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.NO. 311/92

DATE OF DECISION: 2.2.1995

C.A.Sonavane

..Applicant

Mr. S.P.Kulkarni

Counsel for applicant

V/s

Union of India & Ors.

..Respondents

Mr. J.G. Sawant

Counsel for respondents

Coram:

The Hon'ble Shri Justice M.S.Deshpande, Vice
Chairman

The Hon'ble Shri P.P. Srivastava, Member(A)

1. To be referred to the Reporter or not? —
2. Whether it needs to be circulated to other
Benches of the Tribunal ? *no*


Vice Chairman

(4) (10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULETAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NO. 311/92

C.A.Sonavane

..Applicant

V/s

Union of India & Ors.

..Respondents

Coram: Hon. Shri Justice M.S.Deshpande, Vice Chairman
Hon.Shri P.P.Srivastava, Member (A)

Appearance:

Mr. S.P.Kulkarni

Counsel for the applicant

Mr. J.G. Sawant

Counsel for the respondents


ORAL JUDGMENT:

DATED: 2.2.1995

(Per: M.S.Deshpande, Vice Chairman)

By this application the applicant seeks a direction to the respondents to promote him from May 26.5.89 with all consequential benefits as per roster point for S.C. together with seniority, refund of difference between damage/penal rent and normal rent which was charged for a period of 23 months and for removing the adverse effect of the punishment order which was passed in revision.

2. The applicant was appointed as Khalashi with Central Railway on October 10, 1953 and was promoted as Driver C on August 21, 1979 and was posted at Pandharpur. He came to be transferred from Pandharpur to Dhond on 9.2.81 but did not vacate the quarters which were allotted to him at Pandharpur and overstayed there for a period of 23 months. The applicant was visited with the charge of unauthorised occupation of the railway quarter and an inquiry




was held into it. On November 15, 1989 the punishment of reduction by one stage for one year i.e., 16.11.1989 to 15.11.90 reducing his pay from Rs.1680 to Rs.1640 was passed. The appeal against this order was dismissed but in revision by an order dated January 4, 1991 the punishment was reduced to withholding of increment for a period of six months without any effect on future increments and the pay raising from Rs.1720 to Rs.1760 due with effect from 1.5.91.

3. According to the applicant the punishment which was reduced in revision should have taken effect from the date from which the original punishment could have taken effect i.e., from November 16, 1989. The applicant retired on 30.9.1991 and his pensionary benefits came to be affected by the order passed in revision.

4. There is no dispute now before us with regard to the applicant's promotion because the applicant had been promoted and the applicant had no grievance about the proforma promotion which had been granted to him and its consequences and we need not therefore refer to this part of the prayer which is not being pressed.

5. With regard to the operation of the order passed in revision, it is clear from Rule 25(1)(v)(b) of the Railway Servants (Discipline & Appeal) Rules, 1968 that the revisional authority can confirm, reduce, enhance, or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed. This clearly was a case of reduction of penalty and the reduction will be effective only from the date from which the original punishment was imposed i.e., 16.11.1989. The revisional order directing withholding of increments which were due from 1.5.91 was clearly erroneous and the only direction could be that the withholding

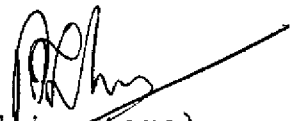



of increments for six months should be made effective from November 16, 1989.

6. The last point is regarding the damage rent recovered for the period of 23 months. It is not in dispute that under S. 7 of the Public Premises (Evision of Unauthoritsed Occupants) Act 1971 action has to be initiated against the applicant and unless an order is obtained under the said provision it would not be open to the respondents to levy penal/damage rent agains the applicant (please see O.A. No.452/92, BHUPINDER SINGH Vs. UNION OF INDIA & ORS. decided on 26.8.1994).

7. We, therefore, direct that the penalty of withholding of one increment by the revision order dated January 4, 1991 shall be effective for a period of six months from November 16, 1989 and the applicant would be entitled to the refund of all the excess amounts which have been deducted from his pay on the basis of the revisional order passed on January 4, 1991. The recovery of the damage rent has been made from the pay of the applicant. The applicant will be entitled to the difference between the damage rent and the normal rent for these 23 months.

8. We, therefore, direct that these amounts shall be refunded to the applicant within four months from the date of communication of this order. We further direct that the pensionary benefits of the applicant should be refixed in view of the directions which we have made and any amount which may become payable to the applicant shall be paid to him within a period of four months from the date of communication of this order. No order as to costs.


(P.P. Srivastava)
Member(A)


(M.S. Deshpande)
Vice Chairman