

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH,
CAMP AT NAGPUR.

Original Application No.475/92.

Shri M.H.Sathe.

..... Applicant.

V/s.

The General Manager,
South Eastern Rly,
Calcutta & Ors.

..... Respondents.

Coram: Hon'ble Vice-Chairman, Shri Justice M.S.Deshpande,
Hon'ble Member(A), Shri M.Y.Irrikar.

Appearances:-

Applicant by Shri S.V.Naik.

Respondents by Shri P.N.Chandurkar.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 15.3.1993.

Heard counsels for the parties. It is apparent when that the promotion of the applicant came up for consideration, he was facing a departmental inquiry on three articles of charges which did not include independently a charge that he had quarelled with the a passenger. The Disciplinary Authority and the Appellate Authority have exonerated the ^{applicant} submission of all the three charges, but the disciplinary authority in his order dt. 29.7.1991 made the following observations:

"However, I presume that there might be some hot exchange of words between you and Shri Jain and this might be the cause of complaint."

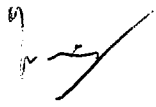
He therefore, decided withholding of the next increment for a period of one year. The material before us shows that the charge of which the applicant was found to be guilty had not been framed against him nor was it supported by any evidence. It was merely a guess work of the Disciplinary Authority and this certainly

was therefore, a case of no evidence. The applicant could not have therefore been found guilty and awarded the punishment of withholding one of his increments. We therefore, quash the findings, as well as the penalty imposed on the applicant.

2. The consequence would be that the basis for withholding the promotion of the applicant did not exist. Our attention has been drawn to a Full Bench decision of this Tribunal in Full Bench Judgments (CAT) page 158, where this view has been taken.

There is no dispute about the fact that but for the penalty imposed on him the applicant would have been entitled and was suitable for promotion. His juniors have been promoted w.e.f. 14th September, 1990 and the applicant would therefore, be entitled to a notional promotion and monetary benefits similar to those given to his juniors from the date on which they were promoted until the date of his superannuation.

3. We direct the respondents to calculate these benefits and pay them to the applicant within two months from today with costs quantified at Rs.300/-. The authorities will fix the pension of the applicant on that basis within two months after the entitlements have been worked out.


(M.Y. PRICKKAR)
MEMBER (A)


(M.S. DESHPANDE)
VICE-CHAIRMAN

B.