IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 635/92

Date of Decision: 23.3.1999

P.T.Talreja .. Applicant

Shri G.S.Walia .. Advocate for Applicant

-versus-

Union of India & Ors. .. Respondent(s)

Shri V.S.Masurkar. .. Advocate for Respondent(s)

CORAM:

The Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,

The Hon'ble Shri D.S.Baweja, Member(A).

(1) To be referred to the Reporter or not ? Yes

(2) Whether it needs to be circulated to other Benches of the Tribunal ? NO

(R.G.VAIDYANATHA)
VICE-CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.635/92.

Pronounced . THIS THE 23 RD DAY OF March 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member(A).

Pratap T.Talreja,
Barrack No.263,
Room No.3,
Behind Jhulelal Mandir,
Ulhas Nagar. ... Applicant.
(By Advocate Shri G.S.Walia)

V/s.

1. Union of India through
General Manager,
Western Railway,
Churchgate,
Bombay.
2. Chief Workshop Manager,
Western Railway,
Lower Parel,
Carriage Workshop,
N.M.Joshi Marg,
Bombay.
3. Deputy C.M.E.(M&P),
Western Railway,
Lower Parel,
Carriage Workshop,
N.M.Joshi Marg,
Bombay.
4. Workshop Manager (R),
Western Railway,
Lower Parel, Carriage Workshop,
N.M.Joshi Marg,
Bombay. ...Respondents.
(By Advocate Shri V.S.Masurkar)

: O R D E R :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application under section 19 of the Administrative Tribunals Act, 1985. The respondents have filed reply opposing the application. We have heard the learned counsel for both sides.

2. The applicant was at the relevant time working as Fitter in the Western Railway. He was issued a charge sheet on 1.12.1987 alleging that he had obtained illegal gratification of Rs.6,000/- from 15 to 20 candidates in criminal conspiracy with M.K.Naidu, by falsely misrepresenting to them to give

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job of Khalasis and thereby he has committed mis-conducct. The applicant filed reply denying the charges. Then the Enquiry Officer was appointed who conducted the enquiry against the applicant, number of witnesses were examined during the enquiry. Then the Enquiry Officer submitted his report on 29.6.89 holding that the charges are duly proved. On the basis of the enquiry report, the disciplinary authority passed an order dt. 30.8.1989 holding that the charges are duly proved and imposed the penalty of removal from service. Then the applicant filed an appeal before the Appellate Authority. The Appellate Authority by order dt. 24.12.1990 rejected the appeal on the ground that it is barred by limitation. Then the applicant preferred a petition for review before higher authority. The Chief Works Manager rejected the review petition by order dt. 4.12.1991. Being aggrieved by these orders the applicant has approached this Tribunal challenging the various orders of the respective authorities on number of grounds. It is alleged that the charge sheet has been issued on conjectures and imagination without any documentary evidence. The presenting officer has examined selected witnesses and not all the witnesses. The enquiry was vitiated by not observing the principles of natural justice. The enquiry report was not furnished to the applicant before imposition of penalty by the disciplinary authority. The applicant had therefore no opportunity to make a representation against the enquiry report. That the Appellate Authority has not considered the case on merits, but rejected the appeal on the grounds of limitation.

The applicant's further case is that notwithstanding the imposition of penalty of removal from service, the applicant is entitled to retirement benefits. The applicant has 37 years of service in the Railways. The respondents have no authority to deprive the pensionary benefits to the applicant. Therefore, the order of the authority denying the retirement benefits to the applicant is illegal. It is mentioned that Rule 309 of the Railway Pension Rules giving discretion to the competent authority to award compassionate grant to the employees who have been removed from service is

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arbitrary. Since there are no guidelines prescribed as to in what circumstances the retirement benefits can be granted or denied, the competent authority cannot deny the pensionary benefits.

The applicant has therefore approached this Tribunal for quashing the impugned order of the Disciplinary Authority, Appellate Authority and the Reviewing Authority with all consequential benefits. Alternatively, the applicant has prayed that he may be granted pensionary benefits. He also prays for quashing of Rule 309 of the Manual of Railway Pension Rules 1950 as unconstitutional and ultra vires.

3. The respondents have filed reply stating that the application is barred by limitation. It is stated that there is no question of giving Enquiry Officer's report to the applicant, since the order of the Disciplinary Authority was passed on 30.8.1989. That the Appellate Authority has rightly rejected the appeal as barred by limitation. It is stated that there was ample of evidence to prove the case against the applicant. It is not necessary to examine all the witnesses. The applicant has been denied the pensionary benefits as per rules. The applicant is not entitled to Compassionate Grant having regard to the circumstances of the case. Rule 309 is perfectly valid. It is therefore, stated that applicant is not entitled to any of the reliefs in this OA.

4. Shri G.S.Walia, the learned counsel for the applicant pressed some grounds before us. The first ground is that the charge of conspiracy cannot be considered, when the alleged co-conspirator is not proceeded in the departmental enquiry along with the applicant. His contention is that all the conspirators must be tried together on charge of conspiracy. There is no documentary evidence against the applicant regarding alleged charge of conspiracy. The applicant submits that all the witnesses listed in the chargesheet are not examined, but only few witnesses are examined and therefore, the enquiry is not properly conducted. The next submission is that the enquiry report was not given to the applicant before the Disciplinary Authority passed the order and hence the whole proceedings are vitiated.

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Then on merits it was stated that there was no evidence against the applicant. It is a case of suspicion and conjectures. Then it was argued that Rule 309 is illegal and unconstitutional. On the other hand, the learned counsel for the respondents Shri V.S.Masurkar supported the action of the respondents and refuted all the above contentions.

5. In the light of the argument before us, the points that fall for determination are as follows :

1. Whether the disciplinary enquiry against the applicant is vitiated for not impleading the co-conspirator Shri Naidu as co-delinquent?
2. Whether the Disciplinary Enquiry is vitiated in view of non-examination of all the prosecution witnesses?
3. Whether, whole disciplinary proceedings are vitiated for non-furnishing of enquiry report before the Disciplinary Authority passed the order dt. 30.8.1989?
4. Whether, on merits, this is a case of no evidence and hence the order of Disciplinary Authority in the disciplinary enquiry is liable to be quashed?
5. Whether the Rule 309 of Railway Pension Rule 1950 is illegal and ultra vires?
6. Whether the applicant is entitled to Pensionary benefits and Railway passes as claimed?
7. What order?

6. Point No.1.

The first contention of the learned counsel for the applicant is that Mr.Naidu is a co-conspirator and without impleading him in the Departmental Enquiry, the enquiry cannot be proceeded against the applicant alone. In our view, there is no merit in this submission. What has happened in this case is that Mr.Naidu was stated to be the main accused and against whom proceedings were taken in the Criminal Court and he was prosecuted there. As far as the applicant is concerned the Administration has proceeded departmentally. There is no law that one accused or one conspirator cannot be tried unless all persons involved are arrayed as accused in the Criminal Case or as delinquents in the departmental enquiry. It may be that the allegation of conspiracy involves two or more persons. The learned counsel for the applicant referred to some decisions on the criminal side to say that when one co-conspirator is acquitted then the other co-conspirator cannot be convicted. We need not

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apply general interpretation of the word conspiracy or about criminal law applicable to conspiracy to a departmental enquiry. Here the word conspiracy is used in the sense that both applicant and Mr.Naidu have joined hands together in taking money from candidates for giving jobs. Even granting for a moment that charge of conspiracy fails for not impleading Mr.Naidu as a co-delinquent, in our view, the applicant cannot be exonerated on that ground.

In criminal law conspiracy is itself an offence in addition to substantive offences. For example, there can be a case of conspiracy with intent to cheat. In such a case, the accused has to be charged not only under the substantive offence under Section 420 IPC, but also under section 120B IPC to cover conspiracy. If the charge under Section 120B fails, it does not automatically exonerate the accused for the substantive offence under Sec.420 IPC.

Let us give two more illustrations on this point. Suppose there is a charge of merger under section 302 IPC against three accused persons alleging common intention and invoking sec.34 IPC. If suppose two accused are acquitted on the ground that common intention is not proved it does not automatically mean that 3rd accused should also be acquitted. If there is direct evidence against the third accused that he assaulted the deceased and did the overt act, he can be still convicted simplicitor under sec.302 IPC without invoking the aid of sec.34 IPC.

Take a case of 10 persons being accused of murder being member of an unlawful assembly punishable under sec. 302 read with sec.149 IPC. Suppose due to discrepancies in evidence eight accused are acquitted, then the charge under section 149 IPC fails, because to attract Sec.149 IPC there must be five or more accused persons. If eight accused are acquitted, the other two accused no doubt cannot be convicted with the aid of Sec.149 IPC. However, if there is direct evidence to show overt act of assault against the remaining two accused and to show that because of their assault with weapons the deceased died, they can still be convicted simplicitor under section 302 IPC, acquittal of other eight accused notwithstanding.

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7. Similarly, in the present case, even if the conspiracy charge fails, the allegation against the applicant is that he collected money from the candidates with a false promise of getting them jobs in collusion or in conspiracy with Mr.Naidu. Even if conspiracy charge fails, if it is proved that applicant had received money from several persons with a false promise of getting them jobs he can still be held guilty of mis-conduct. He cannot escape from that position, provided there is sufficient evidence against him. Therefore, the argument that because of Mr.Naidu being not made a co-delinquent the whole Disciplinary Enquiry against the applicant stands vitiated has no merit. If there is sufficient evidence to involve the applicant in the alleged mis-conduct, he can still be held guilty of mis-conduct. Point No.1 is therefore answered in the negative.

8. Point No.2 :

Number of witnesses mentioned in the charge sheet are 28. But, during the Disciplinary Enquiry only 13 witnesses were examined. The argument of the learned counsel for the applicant is that all the witnesses are not examined and only few picked and chosen witnesses were examined and therefore the enquiry is vitiated. We find no force in this submission. There is no law or rule that all witnesses mentioned in the charge sheet should be examined. It is for the Prosecution to decide and examine those witnesses who are necessary and relevant to prove the charges. If some witnesses are examined, the question is whether their evidence is sufficient to prove the charges or not. Proof of charges does not depend upon the quantum of evidence, but it depends on the quality of evidence. Therefore, the fact that only 13 witnesses were examined as against 28 witnesses cited in the charge sheet does not vitiate the enquiry as such. The question is whether the evidence adduced is sufficient to prove the charges or not. We may only mention a recent decision of the Supreme Court reported in 1997 SCC (L & S) (N.Rajarathinam V/s. State of T.N. & Another), where 18 witnesses were examined of whom 17 witnesses

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turned hostile and only one witness supported the prosecution. The Supreme Court observed that even if 17 witness did not support the prosecution, there is nothing wrong in accepting evidence of solitary witness and holding the charge is proved though 17 witnesses turned hostile. Therefore, the test is whether the evidence produced during the enquiry was sufficient to prove the charges or not and it does not depend upon the number of witnesses. Hence Point No.2 is answered in the negative.

9. Point No.3 :

In this case, the Enquiry Officer submitted his report dt. 29.6.1989 holding that all the charges are proved. On that basis, the Disciplinary Authority passed an order dt. 30.8.1989 imposing penalty of removal from service. Admittedly, the Disciplinary Authority did not furnish a copy of the report to the applicant before passing the impugned order of punishment. The learned counsel for the applicant contended that since enquiry report was not furnished to the applicant and he had no say in the matter the order of the Disciplinary Authority stands vitiated. There is no doubt about the proposition of the law that the Disciplinary Authority has to furnish a copy of the enquiry report to a delinquent official before passing the final order in the Disciplinary Enquiry case. Earlier there were conflicting views on this point, the Supreme Court settled the conflict of opinion in Mohd. Ramzan Khan's case reported in AIR 1991 SC 471, but in the last sentence of para 17 of the reported Judgment the Supreme Court declared that the law declared by them about the duty of the Disciplinary Authority to furnish copy of the Enquiry Report to the delinquent official shall have prospective application and punishments already given are not to be challenged on that ground. The Judgment was delivered in this case on 20.11.1990, but the present order of

Mohd. Ramzan Khan's case.

In our view, this argument has no merit. Here the duty is cast on the Disciplinary Authority to furnish a copy of the enquiry report before he passes the order. Therefore, the crucial date for the purpose of applying the law laid down in Mohd.Ramzan Khan's case is the date of the order of the Disciplinary Authority. If on the date of Disciplinary Authority passed the order there was no such rule of furnishing a copy of the enquiry report, then the order cannot be faulted in view of subsequent decision of the Apex Court in Mohd. Ramzan Khan's case, that is what the Supreme Court has itself observed both in Mohd. Ramzan Khan's case and also in Karunakar's case.

11. Now granting for a moment that there is some violation in not furnishing copy of the enquiry report, even then the order of the Disciplinary Authority is not ipso facto vitiated. What is observed in Karunakar's case by the Constitutional Bench is that even in such a case the Court can get the copy of the order supplied to the delinquent, if he has not yet been supplied and he can be asked to demonstrate as to what prejudice is caused to him and if that is established then further action should be taken.

In the present case, the applicant has been furnished with a copy of the enquiry report along with the order of the Disciplinary Authority. The applicant himself has produced the copy of the enquiry report along with the application filed in this Tribunal. He has not demonstrated in the application as to what prejudice was caused to the applicant due to non-supply of the copy of the enquiry report. Even at the time of arguments, applicant's counsel did not demonstrate before us as to what prejudice was caused to the applicant and how he could have benefitted if the copy had been supplied to early etc. In the absence of any pleadings and in the absence of any

the Disciplinary Authority was rendered on 30.8.1989 about more than a year prior to the decision of the Apex Court in Mohd. Ramzan Khan's case. Further, we find that the same question again was considered by the Constitutional Bench of the Supreme Court reported in 1993 SCC (L&S) 1184 (Managing Director, ECIL, Hyderabad and Ors. V/s. B.Karunakar and Ors.). The Supreme Court has considered all the cases on the point and has held as follows :

> "It is for the first time in Mohd. Ramzan Khan case that this Court laid down the law. That decision made the law laid down there prospective in operation, i.e., applicable to the orders of punishment passed after November 20, 1990. The law laid down was not applicable to the orders of punishment passed before that date notwithstanding the fact that the proceedings arising out of the same were pending in courts after that date. The said proceedings had to be decided according to the law prevalent prior to the said date which did not require the authority to supply a copy of the enquiry officer's report to the employee. The only exception to this was where the service rules with regard to the disciplinary proceedings themselves made it obligatory to supply a copy of the report to the employee". (underlining is ours)

Therefore, the position is very clear that the Rule laid down by the Apex Court about supplying copy of the enquiry report to the delinquent employee will not apply to punishment orders passed prior to 20.11.1990. Hence the said rule cannot be applied to the present case where the punishment order was passed in August, 1989. Again inpara 44 of the reported judgment the Supreme Court has pointed out that "orders of punishment passed prior to the decision of Mohd. Ramzan Khan's case without furnishing the report of the Enquiry Officer's report should not be disturbed". In view of the above position, the applicant cannot make any grievance about non-supply of enquiry report since his case pertains to a period prior to Mohd. Ramzan Khan's case.

10. The learned counsel for the applicant pointed out that applicant's revision petition was disposed of on 4.12.1991 and the order of Disciplinary Authority merges with the order of the Reviewing Authority and therefore, the date 4.12.1991 should be taken as the date for applying the law laid down in

arguments about any prejudice being caused to the applicant due to non-supply of enquiry report, we hold that the disciplinary proceedings cannot be set aside on this ground, even if it is held that applicant was entitled to enquiry report before the order of the disciplinary authority. But, we have already held that the impugned order of punishment was prior to Mohd. Ramzan Khan's case applicant was not entitled to enquiry report at all. Hence, taking any view of the matter, there is no merit in Point No.3 and it is answered in the negative.

12. Point No.4 :

Some arguments were addressed on merits of the case.

The charge framed against the applicant reads as follows :

> "That he entered into criminal conspiracy with Shri M.K.Naidu, HNTXR/ Wadibunder, Central Railway and obtained illegal gratification of Rs.6000/- from each of 15 to 20 candidates by falsely misrepresenting to them to give job of Khalasis at Kandivali Car Shed while there was no vacancy existing at the relevant time nor they were in a position to appoint any person on post of Khalasi in Railway."

Then in the imputations details are given as to how the applicant collected Rs.6000/- from 15 to 20 candidates with a promise that they will be given jobs in the Railways etc.

To prove the charge, the prosecution examined 13 witnesses. Some of the candidates who paid the bribe money to the applicant were examined. Some others who acted as intermediary in passing the money to the applicant are also examined. Some of the witnesses have stated in the evidence that they have paid Rs.6000/- to the applicant due to his assurance that he would get them a job in the Railways.- All the witnesses were corss-examined on behalf of the applicant. The applicant did not adduce any defence evidence. The Enquiry Officer has given a very detailed and lengthy report mentioning the summary of the evidence and then discussing the evidence and referring to the contentions of the Presenting Officer and the applicant and then recorded a

finding that the charge is duly proved.

Therefore, this is not a case of there being no evidence at all. Thirteen witnesses were examined of whom some of them have clearly stated in their evidence about payment of bribe to the applicant in order to get a job in the Railways. After a detailed discussion of the evidence and in a very reasoned order the Enquiry Officer held that the charge is duly proved.

Then the report of the Enquiry Officer has been duly accepted by the Disciplinary Authority and he has also recorded a short speaking order stating that the evidence on record is sufficient to prove the charge against the applicant.

Though the applicant filed an appeal, it came to be rejected summarily since it was barred by limitation. Then the applicant preferred a Review Petition before the Chief Works Manager, who also stated that no ground is made out for interfering with the order of the Disciplinary Authority.

The applicant's counsel was not able to demonstrate as to how the findings recorded by the Enquiry Officer in a detailed and lengthy order is faulted or not sustainable.

13. It is well settled now by a series of recent decisions of the Apex Court that the scope of judicial review is very limited. The Tribunal has to only see the legality of the decision making process and not about legality or correctness of the actual decision. This Tribunal cannot sit in appeal over the findings recorded by domestic Tribuinal. This Tribunal while exercising judicial review cannot and should not re-appreciate the evidence and take a different view, even if another view is possible (vide i) 1998 (1) SC SLJ 74- Union of India & Ors. V/s. B.K.Srivastava, ii) 1998 (1) SC SLJ 78 - Union of India & Ors. V/s. A.Nagamalleshwar Rao, and iii) 1996 SCC L&S 1280 - State of Tamil Nadu V/s. Thiru K.V.Perumal and Ors.).

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In the present case, we have already rejected the argument of the learned counsel for the applicant regarding some objections about holding the enquiry. On merits, we are satisfied that applicant had a fair enquiry and there is sufficient evidence against him regarding the charge framed against him. Therefore, we do not find that the appeal has any case on merits. Point No.4 is answered in the negative.

14. Point No.5 :

The learned counsel for the applicant submitted that though the applicant has been removed from service, he is still entitled to a pension having put in long years of service in the Railway Administration. But his contention is that his right to pension has been taken away by Rule 309 of the Manual of Railway Pension Rules, 1950 by giving arbitrary and uncontrolled power to the Competent Authority. It was therefore, attacked stating that Rule 309 is arbitrary and unreasonable and violates Article 14 of the Constitution.

Rule 309 of the Railway Pension Rules, 1950 reads as follows :

> "309 - Removal or dismissal from service. - No pensionary benefit may be granted to a Railway servant on whom the penalty of removal from service is imposed: but to a Railway servant so removed or dismissed, the authority who removed or dismissed him from service may award compassionate grant(s) - corresponding to ordinary gratuity and/or death-cum-retirement gratuity - and/or allowances corresponding to ordinary pension -, when he is deserving of special consideration: provided that the compassionate grant(s) and/or allowance awarded to such a Railway servant shall not exceed two-thirds of the pensionary benefits which would have been admissible to him if he had retired on medical certificate."

The above Rule provides that no official is entitled to pension if he has been removed from service or dismissed from service. Even under the CCS (Pension) Rules also the normal rule is that if an official is removed or dismissed from service he is not entitled to pension. But, the argument of the learned

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counsel for the applicant is that even in such a case the rule provides for pension by giving arbitrary powers to the Competent Authority. No doubt, the above rule says that even in case of removal or dismissal the Competent Authority may award compassionate grant in a deserving case or on special consideration. Then, a ceiling is put, that in such a case the compassionate grant shall not exceed 2/3 rds of normal pensionary benefits.

The contention is that no guidelines are given as to when and how the Competent Authority can pass an order for compassionate grant or rejecting compassionate grant in the case of removal or dismissal from service. In our view, there is no merit in the submission. The Rule provides that if the official is "deserving or on special consideration" may be given compassionate grant. Therefore, the guideline is that it must be deserving case or there must be special considerations. The statute or rule need not mention what are deserving cases or what are special considerations. It all depends upon the facts and circumstances of the case. It all depends upon the gravity of the charge, the financial position of the official, the number of dependents and similar other considerations.

After Rule 309, we have Rule 310 where certain guidelines are given as to how the Competent Authority should pass an order under Rule 309. Therefore, certain guidelines are given in Rule 310 as to how the power under Rule 309 should be exercised and therefore it is not an unguided or uncontrolled power given to the Competent Authority under Rule 309. If we read Rule 309 with Rule 310, there is no difficulty to hold that the Legislature has provided certain guidelines and parameters under which the powers can be exercised.

For instance, a Railway official who has put in 25 years of service may be unauthorisedly absent for three months and by taking disciplinary action he may be removed from service. Here, his integrity is not questioned, the only mis-conduct is unauthorised absence for three months. Therefore, in such a case the competent authority may still award compassionate grant. It may be a case where the official who has been removed from service has

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handicapped children or a large family with no other source of income etc. Therefore, there may be valid circumstances which deserve or which require special consideration for awarding compassionate grant. It is not necessary that all those grounds should be mentioned in the Rule itself. The Competent Authority has been given discretion and power to award compassionate grant in deserving cases or in cases which require special considerations. It may be a case where though the applicant has been removed from service on some misconduct, he might be suffering from serious desease like heart ailment or cancer and that may be a deserving case or it might be a case attracting special consideration to award compassionate grant.

15. Another attack by the learned counsel for the applicant is that there is no provision for appeal against any order passed under Rule 309. In our view, there are many provisions in service rules for taking administrative decisions. Most of the administrative decisions or orders are not subject to appeal at all. Merely, on that ground it cannot be said that the power is arbitrary or the rule is bad and should be struck down.

For instance, a Head of the Office has power to grant or refuse leave, that order is not subject to appeal. The Head of the Office has powers to sanction T.A. Bill. If he makes some deductions and partly sanctions the T.A. bill there is no provision for appeal. An official may be transferred, but there is no provision for an appeal. Similarly, there are hundreds and hundreds of cases where administrative orders are passed for which no appeal is provided under the rules. Hence, it cannot be said that all administrative powers which do not provide for appeal should be struck down as bad in law.

Even though no such provision is made for appeal against every administrative order including an order of transfer, order of refusal of leave etc. the aggrieved official can always make a representation to the higher officer and the higher officer can always interfere in deserving cases.

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Therefore, merely because there is no provision for appeal in Rule 309 is not a ground to quash the same.

After considering the submissions on both sides, we do not find any merit in the applicant's attack on the legality and the validity of Rule 309. The contention is therefore rejected. Our finding on Point No.5 is in the negative.

15. Point No.6 :

The applicant has made a specific prayer in para 8(b) praying for a declaration that he is entitled for all pensionary benefits including two post-retirement passes.

Though the learned counsel for the applicant argued that Rule 309 is bad in law and has to be quashed etc., he made an alternative submission that applicant may be given the liberty to make a proper application to the Competent Authority for claiming compassionate grant under Rule 309.

The order of the Disciplinary Authority was passed in 1989. Now, we are in 1999. We cannot at this distance of time allow the applicant now to make an application for compassionate grant under Rule 309. As soon as the applicant was removed from service or at the time of passing of that order he could have made a request for a compassionate grant. It is not as if that the applicant was not aware or conscious of his right in this behalf.

In applicant's review petition dt. 30.3.1991 addressed to the Chief Works Manager, Western Railway (vide page 52 of the paper book) the applicant challenged the order of the Appellate Authority and further prayed for pensionary benefits. That is how in the order of the reviewing authority dt. 4.12.1991 (vide page 54 of the paper book) the reviewing authority has rejected the claim of the applicant for pensionary benefits.

Even otherwise, on merits we find that this is a case where the applicant has been removed from service on the ground of serious mis-conduct of taking bribe from candidates with a promise to get them jobs. When his integrity is itself doubtful and he has indulged in malpractices of luring candidates to pay Rs.6000/- for getting a job and then collected the money,

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he cannot now say that he should be granted compassionate grant under Rule 309.

Having regard to the gravity of the charge of the applicant this is not a fit case in which this Tribunal should grant any pensionary benefits under rule 309 to the applicant. Hence, we find no merits in the applicant's prayer for pensionary benefits. Point No.6 is answered in the negative.

16. In the result, the application fails and is hereby dismissed. No order as to costs.

(D.S.BAWEJA)
MEMBER(A)

(R.G.VAIDYANATHA) 23/3/99
VICE-CHAIRMAN.

B.