

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH : GULESTAN BUILDING
6, PRESCOT ROAD, MUMBAI - 400 001
ORIGINAL APPLICATION No.1158/1993

WEDNESDAY, THIS THE 30TH DAY OF JUNE, 1999

SHRI JUSTICE S. VENKATARAMAN ... VICE CHAIRMAN
SHRI S.K. GHOSAL ... MEMBER (A)

Kasam Gulam Hussain Kanyat,
Ex-junior Clerk,
Diesel Loco Shed,
Western Railway, Bandra,
Bombay 400 050.
C/o G.S. Walia, Advocate,
High Court, No.16, Maharashtra Bhavan,
Bora Masjid Street, Fort,
Bombay - 400 001. ..

Applicant

(By Advocate Shri G.S. Walia)

Vs.

1. Union of India, through
General Manager,
Western Railway, Churchgate,
Bombay - 400 000.
2. Divisional Railway Manager,
Western Railway, Bombay Central,
Bombay - 400 008.
3. D.M.E. (Diesel),
Divisional Railway Manager's
Office, Bombay Division,
Western Railway, Bombay Central,
Bombay - 400 008.

Respondents

(By Standing Counsel Shri V.S. Masurkar)

O R D E R

Justice S. Venkataaraman, Vice Chairman :

The applicant was charged with the mis-conduct of manipulating a letter of authorisation and receiving the wages due to another employee. The applicant admitted the charge and the Disciplinary Authority imposed

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the penalty of removal from service. The applicant preferred an appeal. ^{In that appeal} while again admitting his guilt, he pleaded for mercy and reinstatement. The Appellate Authority has modified the penalty and imposed the penalty of Compulsory retirement. These orders have been challenged in this application.

2. The learned counsel for the applicant mainly submitted that the applicant committed the mistake under some compelling reasons, ~~as~~ that, that was the first occasion he had been guilty of mis-conduct and that the penalty of compulsory retirement is as good as removal from service, ~~as~~ even in the case of compulsory retirement, the applicant would not get any pension and that as such, the order of the Appellate Authority purporting to modify the order of the Disciplinary Authority regarding the penalty is invalid.

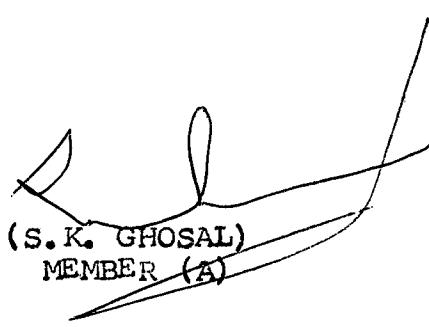
3. The Respondents in their reply have denied that the compulsory retirement amounts to removal or ^{have stated that} dismissal from service and ^{the employee would get} proportionate pensionary benefits depending upon the number of years of qualifying service put in by him even though he is compulsorily retired.

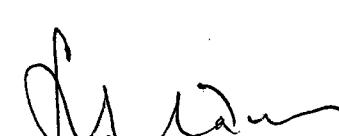
4. The applicant's plea that the penalty imposed is too severe or that it should have been reduced cannot be accepted by us. We cannot say that the penalty imposed is so grossly disproportionate as to shock our consciences, taking into consideration the gravity of the charge proved.

5. Though the applicant has taken up a plea that he would not be eligible for any pension even if he is compulsorily retired, the learned counsel for the applicant now submits that in view of Para 312 read with Para 102 of the Manual of Railway Pension Rules, 1950, the applicant would be entitled to pension. We also find from the above rules that the applicant would be entitled to pension as per the terms of Para 312.

6. The grievance of the applicant is that the Respondents have still not fixed his pension and given his pensionary benefits. That is possibly because the applicant has challenged the order of penalty and the matter is pending before the Tribunal. However, we can give a direction to the Respondents to fix the pension and pay the pensionary benefits to the applicant within a particular time.

7. For the above reasons, this application is disposed of by directing the Respondents to settle the applicant's pensionary benefits as per para 312 read with 102 of the Manual of Railway Pension Rules, 1950, as those were the rules which were in force when the penalty was imposed, within a period of three months from the date of receipt of a copy of this order, subject to the applicant complying with other formalities such as submitting pension papers, if any.


(S.K. GHOSAL)
MEMBER (A)


(S. VENKATARAMAN)
VICE CHAIRMAN