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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

D.A.NO.511/92

Between:

Date of Order:22.2.95.

M.Prabhakaran

...Applicant.

And

1. Union of India,
Chairman, Railway Board,
represented by its Secretary,
Rail Bhavan,
New Delhi.

2. The General Manager,
South Central Railway,
Railnilayam,
Secunderabad.

...Respondents.

Counsel for the Applicant : Mr.V.Krishna Rao

Counsel for the Respondents : Mr.N.R.Devraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI A.V.HARIDASAN : MEMBER (J)

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

contd...

O.A.No.511/92

Dt. of decision: 22.2.95

JUDGEMENT

I As per Hon'ble Sri A.V. Haridasan, Member(J) I

The applicant while working as Divl. Electrical Engineer (T.D.), SCR, Vijayawada was placed under suspension and was proceeded against for a major penalty proceedings on the allegation that he demanded and received an illegal gratification of Rs.500/- from a subordinate of his, by name Mr. David to help in the matter of transfer. The charge sheet was issued on the basis of a trap arranged by the C.B.I. on 30.4.86. The applicant denied the charge and enquiry was held and on the basis of the enquiry report, without^{giving} him a copy of the same and without giving him an opportunity to make a representation against the report, the President imposed on the applicant the penalty of withholding of entire amount of pension, and the entire amount of gratuity as the applicant had retired on superannuation during the pendency of the disciplinary proceedings. Impugning that order the applicant filed OA 850/90 placing reliance on the ruling of the New Bombay Bench of this Tribunal in PREMATH K. SARMA Versus UNION OF INDIA, 1988 (5) ATC 90, this Bench held that the order of penalty was vitiated for denial of principles of natural justice and set aside the penalty giving liberty to the Department to proceed him from the stage of receipt of the report. Thereafter, ~~the~~

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1. The Secretary, Union of India,
Chairman, Railway Board,
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3. One copy to Mr.V.Krishna Rao,Advocate,
CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj,Sr.CGSC,
CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One spare copy.

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the applicant was served with a copy of the enquiry report directing him to submit his representation. On consideration of the enquiry report and representation, the President by the impugned order, dated 22.5.92 imposed on the applicant the penalty of withholding of the entire pension in full along with the entire amount of DCRG. It is aggrieved by this order that the applicant has filed this application U/s 19 of the A.T. Act praying that the impugned order be quashed.

2. The main grounds on which the impugned order is assailed by the applicant is that it is a case of nil evidence. We have heard the learned counsel for the parties and have gone through the relevant materials. We find that the finding of guilt was arrived at on an appreciation of the evidence adduced at the enquiry. SW-4, a Fitter from whom the applicant is alleged to have received Rs.500/- as bribe has given evidence to that effect. The trap witnesses have also been examined. A reappraisal of the evidence and the possibility of even reaching a different conclusion is not a ground on which the Tribunal can interfere with the finding of fact and the consequent order of the competent disciplinary authority. We are convinced that the finding had been rested on cogent evidence and therefore there is no justification for any such interference.

3. In the result, the application which is devoid of merits is dismissed leaving the parties to bear their own costs.

(A.B. Gorthi)
Member (A)

(A.V. Haridasan)
Member (J)

Dt. 22-2-1995
Open Court Dictation