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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No.366/99
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Date of decision: 30-3-1999.
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Between:

N.Vijaya Mohan. Applicant.

And

1.General Manager, South Central
Railway, Rail Nilayam,
Secunderabad.

2.Union of India represented by
Secretary, Railway Board,
Rail Bhawan, New Delhi. .. Respondents.

Counsel for the Applicant: Sri P.P.Vittal.

Counsel for the Respondents: Sri N.R.Devaraj.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member(J)

JUDGMENT.

(by Hon'ble Sri B.S.Jai Parameshwar, Member(J)

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Heard Sri P.P.Vittal, learned counsel for
the Applicant and Sri N.R.Devaraj, learned senior Standing
Counsel for the Respondents.

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The applicant herein while working as Divisional Engineer (South BG), Secunderabad was served with a Memorandum of Charge bearing No. P/SC/227/W/182 d/3.12.1992. An enquiry was held into the said charges and the Enquiry Officer has submitted his report on 22.5.1997. On 5-5-1998 the General Manager, Respondent No.1 herein served a Notice No. P/SC/227/M/182 on the applicant disagreeing with the findings of the Enquiry Officer. The applicant submitted his representation dated 21.5.1998 (Annexure A-8 Page 34 to the O.A.) to the Respondent No.2. It is stated that the respondents have not concluded the Enquiry Proceedings.

In the meanwhile, the applicant retired from service on attaining the age of superannuation.

The applicant has filed this O.A., praying to quash the disciplinary proceedings initiated under Charge Memorandum No. P/SC/W 227/W/182 dated 3.12.1992 and to direct the respondents to release the withheld DCRG etc., of the applicant without any delay.

The respondents have filed a reply ~~stating~~ regarding ~~stating~~ the competency of the General Manager for disagreeing with the findings of the Enquiry Officer and to serve a notice of disagreement on the applicant. Relying on Rule 9 of the Railway Service (Pension) Rules, 1993. They submit that under the proviso ~~Rule~~ to Rule 9(1) of the Railway Service (Pension) Rules, 1993 the ^{Disciplinary} Authority ~~is competent~~ ~~to serve a notice of disagreement on the applicant.~~ is competent to serve a notice of disagreement on the applicant.

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Since the applicant ^{has} is retired from service,
the competent authority has to pass final orders on
the ^{Charge memo d. 3.12.92} ~~retirement~~.

As the applicant has also submitted his representation against the notice of the General Manager on 21.5.1998, the Competent Authority shall conclude the Disciplinary Proceedings as expeditiously as possible.

The learned counsel for the applicant submitted that in view of the pendency of the Charge-Memo, his ~~pensionary benefits~~, Gratuity ^{is} ~~etc.~~, have not yet been settled. He further submitted that the applicant is facing financial difficulties. The Charge-Memo was issued way back in the year, 1992 more than ⁶ years back. He also underwent some heart surgery and hence the applicant is in financial stringency & needing money to tide over the situation.

The learned counsel for the respondents submit that as the Enquiry/^{Pros.} ~~is~~ at the final stage, there is no need to release the gratuity etc., at this stage. ~~So~~ We do not find any ~~error~~ error in the General Manager's asking for the representation of the applicant. But it is made clear that any punishment ^{may} ~~should~~ be awarded by the Competent Authority as provided under the rules. ~~As~~ As the applicant is ⁱⁿ indigent circumstances, we feel that some relief by way of releasing gratuity etc., should be granted. In that view, we feel that if the charge-sheet filed against the applicant is

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is not disposed of within three months from the date of receipt of a copy of this Order, then the applicant shall be granted 50% of the gratuity amount which he is entitled to.

In the result, the following directions are given:

- i) The Competent Authority shall conclude the Charge Memo dated 3.12.1992 within a period of three months from the date of receipt of a copy of this Order;
- ii) In case the Charge-Memo dated 3.12.1992 is not concluded withⁱⁿ the period stipulated above, then 50% of the gratuity amount which the applicant is entitled to, shall be released and paid to him without any further delay.

The O.A., is ordered accordingly. No costs



(B.S. JAI PARAMESHWAR)
Member(J)


(R. RANGARAJAN)
Member(A)

30.3.99

Date: 30-3-1999.

Dictated in open Court


31.3.99