

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIFUR BENCH, JAIPUR.

O.A.No.524/99

Date of order: 13/11/2000

Gordhan Lal Meena, S/o Sh.Malla Ram Meena, R/o Plot No.7&13,
Sriram Colony, Jhotwara, Jaipur.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Rly, Kota Division, Kota.

...Respondents

Mr.Ashok Gaur - Counsel for Applicant.

Mr.S.S.Hasan - Counsel for respondents.

CORAM:

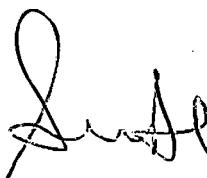
Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1995, the applicant makes the following prayers:

- (i) to give effect to the penalty order dated 11.1.95 from the same date and it should not be treated to be with retrospective effect;
- (ii) the period from 31.1.93 to 11.1.95, should be directed to be treated on duty for all purposes, for payment of pension, computation of pension and other post retiral benefits; and
- (iii) the adjustment amount of gratuity against occupation of Govt accommodation till 11.1.95, be declared illegal and the said amount of gratuity should be paid to the applicant with interest @ 24% per annum.

2. In brief the case of the applicant is that he while working as Guard was issued a charge sheet on the ground of carelessness and negligence and after conducting the departmental enquiry against the applicant, the disciplinary authority imposed the punishment of removal from service, vide order dated 31.1.92. The applicant filed an appeal against the punishment order before DRM Kota which was rejected vide order dated 20.4.93. The applicant filed an O.A before this Tribunal which was registered as O.A No.393/93 and this Tribunal vide order dated 25.11.94, disposed of the O.A with the direction to the appellate



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authority to consider all the factors and to pass an appropriate penalty order within 3 months from the date of receipt of a copy of the order. In pursuance of this Tribunal's order, order dated 11.1.95 was issued as under:

"Having considered the case in view of CAT's directions, the punishment is revised to 'compulsory Retirement'. This consideration has been shown to him purely on humanitarian grounds on account of the directive of the CAT."

It is stated that the applicant filed representation dated 12.10.96 to Sr.Divisional Operations Manager, W.Rly, Kota and further requested to General Manager, W.Rly, vide representation dated 16.12.96 and sent reminders but with no result. Therefore, the applicant filed this O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that the applicant was removed from service vide order dated 31.12.92 issued by Sr.Divisional Operations Manager, Kota. The applicant filed O.A No.393/93, which was decided by the Tribunal on 25.11.94 and in pursuance of the order passed in the aforesaid O.A, the respondents have passed the order converting the punishment of removal into compulsory retirement in humanitarian grounds. It is stated that there was no direction by the Tribunal in earlier O.A that the order of the Railway Administrations shall be effective from the date of passing of the new order and there is no such provision in the rules. It is also stated that the Tribunal did not set aside the order dated 31.12.92 and only passed an order to reconsider the matter on the question of quantum of punishment. As such in the light of the said directions of the Tribunal, the respondents had reconsidered the matter and passed the order dated 11.1.95 by which the earlier order dated 31.12.92 was modified and converted into compulsory retirement. Therefore, the order of compulsory retirement shall be effective from 31.12.92 and it cannot be made effective from 11.1.95. Therefore, the applicant has no case for interference by this Tribunal.

4. Rejoinder has also been filed reiterating the facts stated in the



O.A which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. It is not disputed that in pursuance of the order passed on 25.11.94 by this Tribunal, the competent authority has reviewed the case of the applicant and modified the order of removal to compulsory retirement, taking into consideration, the directions given by this Tribunal in its order dated 25.11.94. The applicant was removed from service vide order dated 31.12.92 and in O.A No.393/92, there was no direction to set aside the order of removal and to reinstate the applicant in service. The only direction given to the appellate authority was to reconsider the case of the applicant on humanitarian ground and in pursuance of the order passed by the Tribunal dated 25.11.94, the respondent department issued order dated 11.1.95, modifying the order of removal into compulsory retirement. Therefore, in no case, the order of compulsory retirement can be made effective w.e.f. 11.1.95 and in my considered view, the applicant has no case for interference by this Tribunal on this count.

7. As regards other relief, I do not find any infirmity/illegality in adjusting the amount of penal rent against the amount of gratuity payable to the applicant. No rule/law has been cited by the counsel for the applicant, so as to say that adjustment of penal rent against the amount of gratuity payable to the applicant is in any way illegal or in contravention of any rules.

8. I, therefore, do not find any merit in the contention raised by the counsel for the applicant.

8. In view of above, the O.A is liable to be dismissed having no merit.

8. I, therefore, dismiss the O.A having no merit with no order as to costs.


(S.K. Agarwal)
Member (J).