

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.402/2000

Date of order: 18/1/2002

Karan Singh, S/o Sn.Jeevan Singh, R/o C/o Sn.Naresn
Kumar, Diesel Asstt, Qtr.No.321-D, Mataghar, Abu
Road (Rajasthan).

...Applicant.

Vs.

1. Union of India through General Manager, Western
Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, W.Rly, Ajmer Divn, Ajmer
3. Sr.Divisional Personnel Officer, W.Rly, Ajmer.

...Respondents.

Mr.Sunil Samdaria : Counsel for applicant

Mr. Mr.T.P.Sharma : Counsel for respondents.

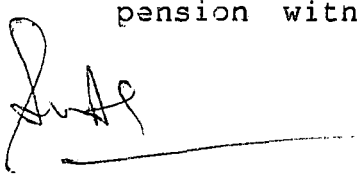
CORAM:

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

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

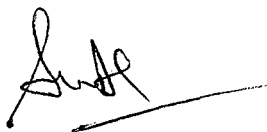
In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer to quash and set aside the
letter at Annx.A20 and to direct the respondents to pay him
gratuity and commuted value of pension alongwith interest @
18% per annum and compensation for undue harassment.

2. Facts of the case in brief as stated by the
applicant, ~~as~~ that the applicant was superannuated on 31.1.92
but one day before his retirement a memorandum of charge-
sheet was served upon the applicant for major penalty. It is
stated that after enquiry the disciplinary authority dropped
the charges levelled against the applicant without imposing
any penalty. The applicant took-up the matter for payment of
retiral benefits such as gratuity and commuted value of
pension with-held but the respondents issued notice for



recovery of Rs.183540/- and asked the applicant to pay Rs.133215/- within 15 days after adjusting Rs.50325/- of gratuity amount payable to the applicant. The applicant submitted reply. Thereafter, General Manager, W.Rly, Mumbai withdrew the said notice vide order dated 7.4.99 but again the General Manager, W.Rly, Mumbai, informed the applicant to keep the notice for recovery in abeyance. The applicant again made representation for releasing the gratuity and commuted value of pension but with no response. The applicant thereafter served a notice for demand of justice through his counsel but with no response. Therefore, the applicant filed this O.A for the relief as above.

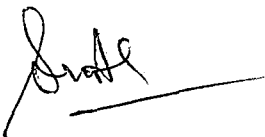
3. Reply was filed. It is admitted in the reply that the disciplinary authority dropped the charges against the applicant vide order dated 25.6.95 but, after dropping the charges, the case of the applicant was sent to Vigilance Department for clearance and the case is still under consideration before the revisionary authority therefore, the DCRG could not be released. It is stated that the disciplinary authority found the applicant responsible for lack of devotion to duty and causing loss to the Railways. Therefore, recovery notice dated 25.2.99 was issued under the relevant pension rules and the applicant has not deposited the amount so far. It is admitted that show cause notice dated 25.2.99 was withdrawn by the General Manager, W.Rly, Mumbai and later on it was kept abeyance. It is stated that the loss caused to the Railways can be recovered under Rule 323 of the Railway Servants (Pension) Rules, therefore, the action for recovery from the applicant is perfectly valid and legal. Therefore, the applicant is not entitled to any relief sought for.



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

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

6. Admittedly, the charge-sheet was issued to the applicant one day before his retirement and the charges levelled against him were dropped by the disciplinary authority without imposing any penalty on the applicant vide order dated 25.6.95. The disciplinary authority while disagreeing the enquiry report dropped the charges levelled against the applicant but the General Manager, W.Rly, suo mottu reviewed the matter under Rule 25 of the Railway Servants (Discipline & Appeal) Rules, 1968 and issued the notice to show cause to which the applicant filed reply. On a perusal of the case file, it appears that the Railway Board vide its letter dated 5.1.99 has advised the Western Railway to cancel the revisionary action initiated against Sh.Karan Singh but till date the DRM Ajmer has not ordered for releasing the amount of gratuity in favour of the applicant. As the DAR case initiated for enquiring the matter regarding negligence as levelled against the applicant by DRM Ajmer was dropped by the disciplinary authority after thorough enquiry and the suo mottu action taken by the revisionary authority was cancelled by the Railway Board vide letter dated 5.1.99 and the order of cut in pension initiated by the administration has also been cancelled by the Railway Board, therefore, issuing a notice for recovery of Rs.183540/- as loss caused to the Railways is nothing but an harassment to the retired employee and there cannot be a better example of harassment than this. It is also pertinent to mention here that there is no order for

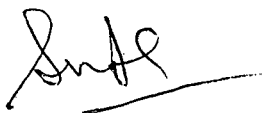


with-holding the pensionary benefits payable to the applicant by the competent authority.

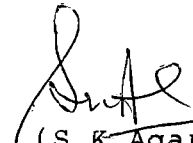
7. The applicant retired on 31.1.92 and memorandum of charge was issued to him one day before his retirement. The charges levelled against the applicant have been dropped without imposing any penalty vide order dated 25.6.95 and the retiral benefits were with-held only because the charge-sheet was pending against the applicant on the date of his retirement. Therefore, after dropping the charge-sheet/charges levelled against the applicant without imposing any penalty, there can be no ground to issue a notice for recovery of Rs.183540/- as loss caused to the Railways. No show cause/opportunity of hearing was provided to the applicant by the respondents' department before issuance of the letter at Annx.A20.

8. In spite of the fact that dropping of the charges against the applicant has reached to finality, the retiral benefits like gratuity and commuted value of pension were not paid to the applicant and they have been with-held by the respondents' department by one pretext or the other. In the circumstances, the applicant is not only entitled to retiral benefits so with-held by the respondents but also interest @ 12% per annum on the retiral benefits so with-held.

9. I, therefore, allow this O.A and quash the order/recovery notice dated 25.2.99 and direct the respondents to release the DCRG and commuted value of pension payable to the applicant within 3 months from the date of passing of this order. The applicant shall also be entitled to interest on these retiral benefits w.e.f. 1.5.92 @ 12% per annum till the retiral benefits is paid to the applicant.



10. No order as to costs.


(S.K. Agarwal)

Member (J).