

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.508/2000

Date of order: 7/3/2002

Sh.Ram Bharoseylal, S/o Sh.Arjun, ExPointsman, W.Rly

R/o Neem k Darwaja, Near Hanuman Mandir, Bharatpur.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.

2. Divisional Railway Manager, W.Rly, Jaipur.

3. Divisional Railway Manager, Bhavnagar Para.

...Respondents.

None present for the applicant

Mr.R.G.Gupta

: Counsel for respondents.

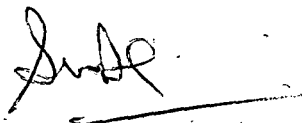
CORAM:

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 relief sought by the applicant is to direct the respondents to grant him pension/pensionary benefits with all consequential benefits.

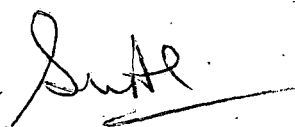
2. Facts of the case in brief are that the applicant was appointed as Pointsman on 26.8.1957 and he was dismissed from service arbitrarily and without any reasonable cause vide order dated 10.11.80. It is stated that on a mercy petition filed by the applicant, the General Manager, vide order dated 27.3.84, gave him a fresh appointment in Bhavnagar Division. Thereafter, the applicant superannuated w.e.f. 30.9.92. It is stated that the termination of the applicant under Rule 14 of the Railway Servants (Discipline & Appeal) Rules 1968 and fresh order of appointment in favour of the applicant vide order dated 27.3.84 are ex



facie illegal, arbitrary and bad in law. It is stated that by such order of termination, the respondents cannot disturb the seniority of the applicant, therefore, the applicant was entitled to pension and pensionary benefits after counting the service from the date of his initial appointment till his dismissal. Hence, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant was dismissed from service vide order dated 10.11.80, as per law and procedure. It is also stated that the order of dismissal was not challenged by the applicant before any forum, hence, the order of dismissal dated 10.11.80 has become final and to challenge this order at such a belated stage is not sustainable in law. It is also stated that the General Manager, on the mercy petition of the applicant, ordered to give a fresh appointment to the applicant and in view of such orders, a fresh appointment was given to the applicant in Bhavnagar Division, vide order dated 27.3.84, after 3 years 4 months from dismissal. Therefore, unless the order of dismissal is set aside by the competent authority, the applicant has no right of continuity of service for the purpose of pension/pensionary benefits. It is also stated that the applicant has not given the details of any person with whom he is claiming similarity. It is stated that the applicant was superannuated on attaining the age of superannuation on 30.9.92. Thus, the qualifying service rendered by the applicant is less than 10 years, hence the applicant is not entitled to any relief sought for.

4. Heard the learned counsel for the respondents. None appeared for the applicant at the time of arguments. An

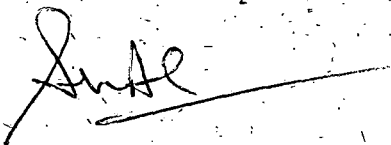


opportunity was given to the applicant to file the written submissions, within a week, but the applicant did not like to avail the same.

5. On a perusal of the averments of the parties, it appears that the applicant was appointed initially as Pointsman on 26.8.57 and vide order dated 10.11.80 he was dismissed from service. The order of dismissal was not challenged by the applicant before any forum, therefore, the order of dismissal has become final. The applicant also did not challenge the order of his appointment as fresh face. Therefore, challenging the order of dismissal dated 10.11.80 and order of appointment as a fresh face dated 27.3.84 at such belated stage is not permissible in law.

6. It is a settled principle of law that after dismissal from service, a Railway servant is not entitled to any pension as after dismissal from Railway service/post the Railway servant shall lead to forfeiture of his past service and the past service shall only be counted for pension purposes if he is reinstated in appeal/review. In this case, the applicant has not been reinstated either by an order in appeal or revision but on a mercy petition filed by the applicant himself he has been given appointment on the post as fresh face.

7. On a perusal of the averments made by the parties it is abundantly clear that the applicant is not entitled to any pension/pensionary benefits as the applicant was given appointment as Points-man, on his mercy petition in a different division i.e. Bhavnagar as a fresh face. Therefore, in the facts and circumstances of this case and settled legal position, the applicant has no right to count his past service w.e.f. 26.8.57 to 10.11.1980 for the



purpose of pension. Thus, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

8. I, therefore, dismiss this O.A having no merits with no order as to costs.



(S.K. Agarwal)

Member (J).