

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::GUWAHATI-5

O.A.No.185 of 1997

DATE OF DECISION: 5.3.1999

Shri S.R. Dey

.....APPLICANT(S)

Mr A.B. Choudhury and Mr S. Islam

.....ADVOCATE FOR
APPLICANT(S)

VERSUS

Union of India and others

.....RESPONDENT(S)

Mr B.K. Sharma, Railway Counsel

.....ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the Judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.185 of 1997

Date of decision: This the 5th day of March 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Susanka Ranjan Dey,
Retired Guard (Passenger),
N. F. Railway,
Resident of Barpathar Kalibari Road,
P.S. Borpathar, Dist. Golaghat.
By Advocate Mr A.B. Choudhury and
Mr S. Islam.

.....Applicant

-versus-

1. The Union of India, represented by the
Secretary,
Railway Administration.
 2. The Divisional Personnel Officer,
N. F. Railway,
Tinsukia.
 3. The General Manager,
N.F. Railway,
Maligaon, Guwahati.
 4. The Divisional Railay Manager (P),
N.F. Railway, Tinsukia.
 5. The Divisional Operating Superintendent,
N.F. Railway,
Tinsukia.
- By Advocate Mr B.K. Sharma, Railway Counsel.

.....Respondents

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O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexure 2 order dated 1.2.1991 passed by the 5th respondent- Divisional Operating Superintendent, N.F. Railway, Tinsukia. He has also prayed for direction to the respondents to pay his pension and other pensionary benefits.



2. Facts for the purpose of disposal of this application are:

The applicant, at the material time, was a Railway Guard (Passenger) serving under the N.F. Railway. He was served with Annexure 1 chargesheet alongwith article of charges and the Annexure 2 Statement of Imputations. The applicant was asked to show cause why disciplinary action should not be taken against him. The applicant submitted his reply to the show cause. However, the Disciplinary Authority not being satisfied with his reply to the show cause, decided to proceed with the disciplinary proceedings. An Enquiry Officer was appointed. The case of the applicant is that he was asked only once to appear before the Enquiry Officer on 20.4.1992. However, according to the applicant, on that day no witness was examined. The applicant was also not served with the necessary documents and other relevant papers as required under Rule 9(6) of the Railway Servants (Discipline and Appeal) Rules, 1968. The disciplinary proceeding did not come to an end even when the applicant attained the age of superannuation. Situated thus, the applicant filed a money suit (No.8 of 1994) for recovery of his pensionary benefits in the court of the Assistant District Judge, Golaghat. The said money suit was dismissed by the court by order dated 6.3.1997 on the ground that the same was not maintainable in view of Section 28 of the Administrative Tribunals Act, 1985. Hence the present the application.

2. In due course the respondents have entered appearance and filed written statement. In the written statement the respondents have stated that the disciplinary proceeding could not be completed and a final order could not passed in view of the fact that the applicant attained the age of superannuation on 29.2.1992 and a Presidential Sanction was

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required towards the imposition of penalty. In the written statement the respondents have also stated that enquiry was conducted and a copy of the enquiry report was also served on the applicant. However, it is not known what steps were taken by the respondents thereafter.

4. We have heard Mr A.B. Choudhury, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. Mr Choudhury submits that the disciplinary proceeding should have come to an end on the date of attaining the age of superannuation by the applicant, unless there was a Presidential Sanction empowering the authority to proceed with the matter even after his retirement. According to Mr Choudhury this was not done. Mr Sharma also has not been able to show what steps the authority had taken after the applicant attained the age of superannuation. The applicant attained the age of superannuation as far back as in 1992. Till now there is nothing in the record to show that the Railway Administration has taken any steps in this regard. In the written statement the reason for the delay was sought to be explained by saying that the papers are pending before the competent authority in the office of the President. However, no record has been placed before us to show that the Railway Administration had, in fact, taken steps in that regard. It is now almost seven years since the applicant had attained the age of superannuation. This itself is sufficient to indicate that the Railway Administration has not taken any steps for completion of the disciplinary proceeding and subsequent imposition of penalty. Such things cannot be allowed to continue any further.

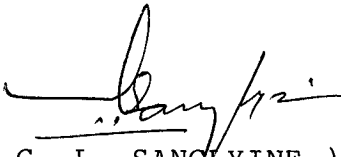
5. In view of the above we quash the disciplinary proceedings initiated against the applicant and direct the respondents to pay the pension and other pensionary benefits


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to the applicant as early as possible at any rate within a period of three months from the date of receipt of this order. Mr Choudhury has also prayed for direction to give reasonable interest. It is true that the Apex Court also in many cases granted interest in similar circumstances. However, we leave the matter to the authority to decide on this point. This decision should also be taken within a period of three months from the date of receipt of the order.

6. The application is accordingly disposed of. No order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN