

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
.....

Original Application No. 361/2003

Jabalpur, this the 23rd day of March, 2004

HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

Madhav Singh s/o Shri Narmada Prashad,
aged about 61 years, retired Head Train
Ticket Examiner, Central Railway,
R/o 1379, East Balbagh,
Ghamapur Chowk, Jabalpur (MP).

...Applicant

(By Advocate: Shri L.S.Rajput)

-versus-

1. Union of India through
General Manager,
West Central Railway,
Near Railway Station,
"INDIRA-MARKET",
Jabalpur (MP).
2. Divisional Railway Manager,
West Central Railway,
Jabalpur (MP).
3. Senior Divisional Commercial Manager,
West Central Railway,
DRM's office,
Jabalpur (MP).

...Respondents

(By Advocate: Shri M.N.Banerjee)

O R D E R

By Shri Madan Mohan, Member (J):


By filing this O.A. the applicant has sought the
following main reliefs:-

- i) to direct the respondents to draw regular increments in favour of the applicant, normally due on 1.3.2001 & 1.3.2002 & calculate the pension & other pensionary benefits on the last pay so arrived as on 1.3.2002 and make payment of arrears and pensionary benefits flowing from such re-fixation of pay, including revision of pension & family pension.
- ii) to quash the punishment order, if any, being non-est and ab-initio void, passed in violation of the statutory Rule 11(2) of R.S. (D&A) Rules, 1968 and direct the respondents to consider the applicant for proforma promotion if other wise due to him.



2. The brief facts of the case are that on the date of superannuation i.e. 30.11.2002 was posted as Head Train Ticket Examiner in the grade of Rs. 5000-8000(RSRP) at Jabalpur and was not paid the regular annual increments in the pay from 1.3.2001 and was stagnated at Rs. 5900/- from 1.3.2000 till the date of his retirement. The applicant was due for his regular increment w.e.f. 1.3.2001 but this increment was not sanctioned to him. He came to know that due to pendency of a minor penalty chargesheet against him his annual increment could not be sanctioned. He was also informed verbally that a penalty of withholding of increment for two years had been imposed on him but the punishment order is not readily available as the file has gone to Mumbai.

2.1 The applicant approached the Chief Clerk of respondent no. 3 Shri G.P.Sharma in this regard but copy of alleged punishment was not served to him. The applicant submitted that a minor penalty chargesheet dated 2.5.2000 was served to the applicant for not declaring his private case while proceeding on duty on 30.5.1999 from Jabalpur to Itarsi. Applicant submitted his explanation against it to the disciplinary authority but no order was passed by the disciplinary authority. The applicant lastly sent representation to the Senior Divisional Commercial Manager, respondent no. 3, on 13.6.2001 and 20.12.2001 requesting him to cancel the alleged punishment order, if any, and specifically submitted that no punishment order has been received by him. The Station Manager, Jabalpur informed the respondent no. 2 that the applicant had not received any punishment order till that date. During the period between 1.3.2001 to 30.11.2002, the respondents promoted as many as 30 junior persons to the grade of Rs.5500-9000(RSRP) as Assistant Chief Ticket Inspector ignoring the claim of the applicant. Whenever the applicant approached the officers of respondents nos. 2 and 3 for promotion and for enhancement of pay, he was on the one hand assured that



he would get all his dues including promotion when the case is cleared by the vigilance branch and on the other hand they also warned him not to approach the higher authorities. The applicant finally retired on 30.11.2002 with basic pay of Rs. 5900/- while his all retiral dues such as DCRG, Leave encashment and pension were calculated on basic pay of Rs. 5900/- whereas all the above payments were to be made on the correct basic pay of Rs. 6200/-. Even after the applicant tried to his level best to receive the order of punishment, if any, but all in vain. The applicant submits that the said punishment/penalty could not have been imposed under minor penalty chargesheet SF-11 without holding a proper and regular enquiry under Rule 9 of R.S.(D&A) Rules, 1968 by giving a charge memorandum under SF-11(b).

3. Heard the learned counsel for the parties and perused the pleadings and other material on record.

4. It is argued on behalf of the applicant that he could not obtain a copy of the order of minor penalty alleged to have been imposed on him inspite of his best efforts and even minor penalty could not have been imposed without giving him an opportunity to show cause which was not followed by the respondents. It is further argued that during the period between 1.3.2001 to 30.11.2002, the respondents promoted as many as 30 junior persons to the applicant which had affected the pension and other consequential retiral benefits, i.e. DCRG, Leave encashment etc. It was further argued that in a similar case in OA No. 197/2002 decided on 20.1.2004 (Vasudeo Krishna Rao Gode vs. Union of India & Anr.), this Tribunal had issued the show cause notice to the respondents and the respondents had admitted that the copy of punishment order was not served on the applicant therein. The present case is also of the same category as that of O.A. No. 197/2002, therefore, this proves the malafide intention of the respondents and their



subordinates staff.

5. In reply, the learned counsel for the respondents argued that the main ground taken by the applicant that punishment order has not been served on him and for this purpose it has been alleged that since the punishment order has not been served, the penalty imposed has to be cancelled, is not acceptable because of the fact that the applicant was aware of the said punishment and had submitted his representation on 13.6.2001 to the Senior Divisional Commercial Manager, Jabalpur praying for reconsideration of the punishment. Similar case came up before this Tribunal in OA No. 197/2002 in which the Tribunal has held the service of order as valid and also upheld the punishment for keeping private cash.

6. Learned counsel for the applicant again drew our attention towards the order passed by this Tribunal in OA No. 197/2002 showing that in that order the Tribunal did not hold the punishment order valid but the directions were given to the applicant to make a comprehensive appeal before the respondents and in turn respondents were directed to dispose of the same by passing a speaking, detailed and reasoned order with the stipulated period. Hence, it was argued that without serving any copy of punishment order if the applicant has moved any representation for quashing ~~of~~ the same that does not amount to service of punishment order.

7. After hearing the learned counsel for the parties and carefully perusing the records, we are of the considered opinion that this O.A. deserves to be disposed of with directions to issue a copy of the alleged punishment order, if any, affording a reasonable time to the applicant for making his representation against the said order and after consideration of the said representation to be filed by the applicant, pass a reasoned, speaking and detailed order.

8. In view of the above, the O.A. is disposed of with a direction to the respondents to serve a copy of the alleged punishment order to the applicant within a period of one



month. Applicant is also directed to file his appeal against the said punishment order to the Appellate Authority within one month from the date of receipt of the punishment Order. If the applicant complies with the above direction, respondents are further directed to dispose of the said appeal of the applicant within a period of two months from the date of receipt of such appeal by passing a speaking, detailed and reasoned order with communication to the applicant. No costs.

(MADAN MONHAN)
MEMBER (J)

(M.P.SINGH)
VICE CHAIRMAN

/na/

प्रतिवादी से भो/व्या.....जबलपुर, दि.....
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- (4) प्रतिवादी से भो/व्या.....जबलपुर, दि.....

L.S. Ray

M.N. Bhang

प्रतिवादी से भो/व्या.....जबलपुर, दि.....

10/11/2014