

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 632 of 2002

Jabalpur, this the 11th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

I.S. Sangwan, aged about
66 years, S/o late Shri
Sukhdayal Ram Sangwan,
retired Executive Engineer,
Central Railway, Jabalpur.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India, through
Secretary of Railway, RailBhawan,
New Delhi.
2. General Manager, Central Railway
Headquarter Officer-Personnel
Branch, Mumbai. C.S.T.
3. Divisional Railway Manager,
Central Railway, Jabalpur.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main relief:-

"(1) It is therefore, prayed that the order Annex.A/1, may kindly be quashed, and the respondents may kindly be directed to restore the benefit of pension & gratuity to the applicant".

2. The brief facts of the case are that the applicant in the year 1993-94 was posted as Executive Engineer, Central Railway. The applicant allegedly entered into a criminal conspiracy with I.O.W. Nayak and contractor with malafide intention to cheat the railway. The applicant was prosecuted under Section 13(1)(d) read with Section 13 (2) of the Prevention of Corruption Act and special judge found the



applicant guilty of the same. Respondent 1 issued show cause notice for withholding whole or part of pension under Rule 9 of the Railway Servants (Pension) Rules, 1993 read with Sec.14 of Railway Servants (D&A) Rules, 1968. The applicant filed reply (Annexure A3) stating that from 9.3.94 to 29.3.94 the applicant was sick and this fact is supported by document. The entire work was executed by the contractor under the supervision of Nayak, I.O.W. during the sickness of the applicant, and this fact is mentioned in railway records. The applicant resumed duties on 29.3.94 and there was no other executive engineer in the absence of the applicant and Deputy Chief Engineer had the jurisdiction. Since everything was processed under the pressure of Dy.Chief Engineer, the applicant had to certify the measurement book. The applicant himself initiated an enquiry against the contractor and I.O.W. After the investigation the excess payment was recovered due to the immediate and vigilant action by the applicant. There was no conspiracy, otherwise, the applicant would not have initiated action of the recovery from the contractor. After the conviction the applicant filed an appeal and sentence had been suspended by the Hon'ble High Court. The respondents have not considered the representation. Hence this OA is filed.

3. None is present for the applicant. Hence we dispose of this application by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987.

4. Heard the learned counsel for the respondents. It is argued on behalf of the respondents that the charges of criminal conspiracy with IOW and contractor with malafide intention to cheat the railway were established against the applicant beyond doubt hence the applicant was convicted



and sentenced to undergo rigorous imprisonment under various sections of IPC and Prevention of Corruption Act. Considering the applicant's conviction in the criminal case, the Railway Board issued charge memo dated 30.11.2000. The charge memo was issued under Rule 14(1) of Railway Servants (Discipline & Appeal) Rule 1968 and it is denied that from 1.1.96 complete pension cannot be stopped as alleged. Rule 9 of Railway Services (Pension) Rules 1993 provides that:

"9. Right of the President to withhold or withdraw pension.

(1) The President reserves to himself the right of withholding or withdrawing a pension or gratuity or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Railway, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement."

and the counsel further argued that after considering the representation of the applicant and the relevant records of the case, the President after consulting Union Public Service Commission came to the conclusion that charges for which the applicant has been convicted are acts of grave misconduct and considering gravity of charges the President decided to forfeit entire pensionary benefits on permanent basis vide order dated 19.8.02 (A-1). Hence no irregularity or illegality has been committed by the respondents.

5. After hearing the learned counsel for the respondents and carefully perusing the records, we find that the applicant was convicted by Court of Special Judge (CBI), Jabalpur in RC No.36(A)/95/JBP on the charges of criminal



conspiracy with IOW and contractor with malafide intention to cheat the Railway. The charges were established against the applicant beyond doubt hence he was convicted and sentenced to undergo rigorous imprisonment under various sections of IPC and Prevention of Corruption Act. Rule 9 of Railway Services (Pension) Rules 1993 provides that:

"(1) The President reserves to himself the right of withholding or withdrawing a pension or gratuity, or both either in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Railway, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement."

The applicant himself admits that he was convicted by the competent court. Hence the action taken by the respondents is neither irregular nor illegal. It is perfectly justified.

6. The OA has no merits and hence the same is dismissed.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन सं. ओ/न्या.....जगलपुर. दि.....
प्रतिलिपि ३।(३) डिन:-

(1) संघिक, उच्च न्यायालय वार दलोविहार, जगलपुर

(2) आवेदक श्री/श्रीमती/स्त्री.....को काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/स्त्री.....को काउंसल

(4) जंगलपुर, क्लेटन, जगलपुर न्यायालयी

सुनाना एवं आवश्यक कार्यवाली हेतु

Vijay Nayak

MN Banjre

16.8.04

उप. रजिस्ट्रार

Issued by
16.8.04
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