

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

22.01.2014

OA No. 856/2012

Mr. S.S. Ola, Counsel for applicant.
Mr. Tanveer Ahmed, Counsel for respondents.

Heard learned counsel for the parties. The OA is disposed
by a separate order.


(G. George Parackken)
Judicial Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 856/2012

Jaipur, the 22nd day of January, 2014

CORAM :

HON'BLE MR. G. GEORGE PARACKEN, JUDICIAL MEMBER

Kirti Kumar Gotharwal son of Late Shri Phool Chand, aged about 70 years, retired from the post of Chief Goods Supervisor, Ajmer. Resident of 71/9 Madhyam Marg, Mansarovar, Jaipur.

... Applicant

(By Advocate: Mr. S.S. Ola)

Versus

1. Union of India through the General Manager, North Western Railway, HQ Office, Jawahar Circle, Jaipur.
2. Divisional Railway Manager, North Western Railway, Ajmer.
3. Chief Commercial Manager, North Western Railway, HQ Office, Jawahar Circle, Jaipur.
4. Sr. DPO, North Western Railway, Ajmer Division, Ajmer.

... Respondents

(By Advocate: Mr. Tanveer Ahmed)

ORDER

PER HON'BLE MR. G. GEORGE PARACKEN, JUDICIAL MEMBER

In this OA, the applicant's grievance is that even though after having been exonerated in the disciplinary proceeding, he has not been paid any interest on the delayed payment of gratuity.

2. The brief facts which are relevant for the disposal of this case are that the applicant retired from service on 30.04.2003. On that date, the disciplinary case was initiated against him vide Memo dated 16.04.2002 (Annexure A/2) under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968. The Inquiry Officer submitted his report on 08.09.2009 holding that out of the eight charges leveled

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against him, seven charges have not been proved. However, the fourth charge was held to be proved. The relevant part of the said Inquiry report is as under:-

"Charge No. 4

In his statements charged official stressed upon that on 10/6/99 there was at random rainfall and staff had no time to protect the consignment, till such time they could arrange tarpaulin the rain stopped.

On the contrary SM Sh. R.K. Khanna, while answering to question no. 5, stated that fast-wind prior to rain started to about 14:30 Hrs. and rainfall occurred at 15:30 Hrs. Thus it is evident that possibility of rainfall was indicated well in advance but no serious view was given to it, although sufficient stock of tarpaulin was available with CGS."

3. However, after having considered the aforesaid report of the Inquiry officer, the President of India in its capacity as Disciplinary Authority of the applicant, vide order dated 15.02.2012, ordered for dropping of all charges holding that there was contradiction even in charge No. 4 and in the observation of the Inquiry Officer made thereon. The said order of the Disciplinary Authority is as under:-

**"GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No. E(D&A) 2010 AE 16-2

New Delhi, dated 15.02.2012

ORDER

"The President has considered the report of the Inquiry Officer appointed to inquire into the charges leveled against Shri Kirti Kumar, retd. Chief Goods Supervisor, Ajmer Division, North Western Railway, relating to Charge Memorandum No. CON.E.308/4/3550 dated 16.04.2002, the representation submitted by Shri Kumar and all the other records relevant to the case.

2. The President has agreed with the findings of the Inquiry Officer as regards the 7 out of 8 charges held as not proved in the inquiry report. As regard Article 4 of the charge there is

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contradiction in the basic charge and the observation of the Inquiry Officer in as much as there was no need for protecting the cement bags when as per the prosecution itself there was no rain on the fateful day. The President has accordingly held that a formal punishment of cut in pension is not warranted in this case and has ordered that the charges leveled against Shri Kumar be dropped.

BY ORDER AND IN THE NAME OF PRESIDENT."

(Jiwa Nand)
Director Establishment (D&A)
Railway Board

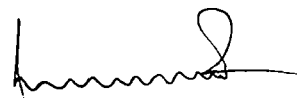
Shri Kirti Kumar,
Retd. Chief Goods Supervisor, Ajmer Division,
C/o The General Manager (P),
North Western Railway,
Jaipur."

4. The respondents have filed their reply. Their contention is that since the President has passed the order dropping of the charges only on 15.02.2012, the applicant is entitled for interest only from that date and not from the date it was due.

5. I have heard the learned counsel for the applicant, Mr. S.S. Ola and the learned counsel for the respondents, Mr. Tanveer Ahmed. I have also perused the entire documents available on record. It is not disputed that the applicant was proceeded under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 vide Memo dated 16.04.2002 (Annexure A/2). He retired from service only on 30.04.2003. The respondents, if they wanted, could have very well finalized the aforesaid disciplinary proceeding pending against him, before his retirement. However, the Inquiry Officer took over 7 years to submit his report on 08.09.2009 (Annexure A/4). Thereafter, the Disciplinary Authority took another nearly two and a half years to pass

its order dropping the Charges. All these years, the respondents have withheld the DCRG of the applicant and kept the amount with them. In my considered view, the respondents were absolutely unfair in their approach. They were totally insensitive to the cause of the applicant who has retired from service for the last over 10 years. First of all, they should have finalized the disciplinary proceedings against the applicant before his retirement as the proceedings have been initiated against him one year before his retirement. For any reason, if they could not finalized the proceedings before his retirement, it should have been done within a reasonable period. But there is no justification for the delay of 10 years in finalizing the proceedings.

6. In view of the above, I allow this OA and direct the respondents to release the withheld DCRG of the applicant forthwith, if not already done, with upto date interest at the GPF rate applicable as on date. The applicant is also entitled for the payment of cost of litigation quantified as Rs.5000/- (Rupees five thousand only). The aforesaid directions shall be complied with within a period of two months from the date of receipt of a copy of this order.



(G. GEORGE PARACKEN)
JUDICIAL MEMBER

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