

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 09.03.2015

ORIGINAL APPLICATION NO. 060/00136/2014
Chandigarh, this the 13th day of March, 2015

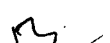
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CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

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Gian Chand Rana son of late Shri Salig Ram Thakur, Senior Booking Clerk, Northern Railway (last posted under Station Superintendent, Chandigarh), compulsorily retired since 13.03.2009, presently residing at House No. 309, G.H.-27, Mansa Devi Complex, Sector No. 5, Panchkula (Haryana).

...APPLICANT

BY ADVOCATE: SHRI H.K. SHARMA

VERSUS

1. Union of India through its Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
 2. The General Manager, Northern Railway, Baroda House, New Delhi.
 3. The Additional Divisional Railway Manager, Northern Railway, Ambala Division, DRM Office, Ambala Cantt.
 4. The Senior Divisional Commercial Manager, Northern Railway, Ambala Division, DRM Office, Ambala Cantt.
 5. The Divisional Commercial Manager, Northern Railway, Ambala Division, DRM Office, Ambala Cantt.
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6. Shri Shamsheer Singh, the then Divisional Commercial Manager, DRM Office, Ambala (to be served through Respondent no. 2).

...RESPONDENTS

BY ADVOCATE: SHRI G.S. SATHI

ORDER

HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-

This is the second O.A. filed by the applicant in the disciplinary case against him. The first O.A. No. 224-HR-2012 was disposed of by this Tribunal, vide the Order dated 10.10.2012 (Annexure A-4), the penultimate paragraph whereof reads as under:

"13. Accordingly, this O.A. is partly allowed. The impugned order dated 13.3.2009 of the disciplinary authority and the subsequent order dated 24.8.2009 of the appellate authority and dated 25.10.2011 of the Revising Authority are quashed and set aside. The Disciplinary Authority is directed to pass a reasoned and speaking order with reference to all the points raised in the representation dated 30th January, 2009 of the applicant after giving him an opportunity of being heard within a period of 3 months from the date of receipt of a copy of this order."

2. The applicant then filed Review Application No. 88/2012, which was dismissed as withdrawn on 24.01.2013 (Annexure A-9), Contempt Petition No. 60/2013, which was dismissed on

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10.04.2013 (Annexure A-10) and Execution Application NO. 609/2013, which was disposed of as having been rendered infructuous on 18.10.2013 (Annexure A-11). Prior to filing of the aforesaid first O.A., the applicant had also filed CWP No. 17830/2009 (O & M) before the Hon'ble High Court of Punjab and Haryana, which was disposed of on 14.07.2011 with liberty to the applicant to file revision petition (Annexure R-2).

3. 'Compulsory retirement' is the punishment initially imposed on the applicant on the charges of corruption, by the disciplinary authority on 13.03.2009 and the same punishment has now been imposed by the fresh order of the disciplinary authority on 09.01.2013 (Annexure A-1). This fresh order has been passed in compliance with this Tribunal's Order dated 10.10.2012 (Annexure A-4). Through the instant O.A., the applicant has challenged the said fresh order of the disciplinary authority passed on 09.01.2013.

4. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

5. A perusal of the disciplinary authority's fresh order dated 09.01.2013 shows that the same is a speaking order with reference

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to all the points raised by the applicant in his representation dated 30.01.2009, passed after affording him personal hearing. The punishment of compulsory retirement again imposed by the said fresh order dated 09.01.2013 would be effective from the date of the first order imposing punishment of compulsory retirement, i.e. 13.03.2009 [vide the Hon'ble Supreme Court's judgment in **UOI and Others Vs. P Gunasekaran**, 2014(13) SCALE 24].

6. Being also aggrieved by the fresh order dated 09.01.2013, the applicant could have availed of the remedy of appeal under rule 18 of the Railway Servants (Discipline and Appeal) Rules 1968. The applicant has instead chosen to file the instant O.A. raising a peculiar contention that he, being a pensioner, could be proceeded against only by the President under rule 9 of the Railway Services (Pension) Rules 1993 and that the said fresh order of 09.01.2013 has been passed by an incompetent authority.

7. Per contra, the contention on behalf of the respondents is that the applicant is getting his pension in terms of rule 64 of the Railway Services (Pension) Rules 1993, which provides for pension in case of compulsory retirement as a penalty, that rule 9 of that said Rules does not apply to the case of the applicant and that the

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instant O.A. is not maintainable having been filed without exhausting the statutory remedies under the Railway Servants (Discipline and Appeal) Rules 1968.

8. We see substance in the aforesaid contention on behalf of the respondents and are of the view that the present O.A. does not deserve to succeed.

9. The O.A. is, therefore, dismissed. No order as to costs.

(DR. BRAHM A. AGRAWAL)
MEMBER(J)

(RAJWANT SANDHU)
MEMBER(A)

Dated: 13.03.2015
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