

ORAL

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the **28th Day** of **September**, 2018)

Hon'ble Mr. Justice Bharat Bhushan, Member (Judicial)

Original Application No.330/944/2018
(U/S 19, Administrative Tribunal Act, 1985)

Jagdish Prakash Sharma a/a 71 years, S/o late Mijazi Lal Sharma, R/o 62/259-B, Nagla Kachiyani, Near Mustafa Quarters, Agra Cantt, District Agra.

..... **Applicant**

By Advocate: **Shri S.K. Srivastava proxy counsel to Shri Anil Kumar Srivastava**

Versus

1. Union of India through General Manager North Central Railway, Allahabad.
2. D.R.M. Central Railway Jhansi.
3. Sr. DEE (TRO), DRM office, Central Railway, Jhansi.

.. **Respondents**

By Advocate: **Shri Shesh Mani Mishra**

ORDER

Shri S.K. Srivastava proxy counsel to Shri Anil Kumar Srivastava, Advocate is present for the applicant. Shri Shesh Mani Mishra, Advocate is present for the respondents.

2. Present Original Application (in short 'OA) has been filed by the applicant for the following relief(s):-

"i. *Issue an order or direction to the concerned respondent authorities to decide the grievances of the applicants after including the seniority given to all retiral benefits, arrears and other benefits from*

the date of retirement within some specific period along with 10% interest per annum.

- ii. issue an order or direction to the concerned respondent authorities to decide the representation dated 18.01.2018 in regard of the retiral benefits within some specific period.*
- iii. issue any other order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case, so as to meet the ends of justice.*
- iv. to award costs of the application in favour of the applicant."*

3. The facts, in brief, are that the applicant was appointed in Central Railway on 01.08.1972. On 19.12.1997, Train No.8478 Up (Utkal Express) by Loco No.20624 of WAM-4 was passed up first loop started signal at on position due to sudden mechanical defect. Disciplinary proceedings were initiated against the applicant and punishment order was passed on 12.06.1998 and 01.09.1998. These orders were challenged before this Tribunal by filing OA No.149 of 2008, which was decided on 14.03.2006 with the following observations:-

- "17. Hence, the O.A. succeeds to the limited extent that the order of compulsory retirement being not the one as is normally imposed for the type and gravity of misconduct as is evident from the DO letter dated 12.06.1998, the impugned order dated 30.09.1998 is hereby quashed and set aside This would tangentially mean that the appellate order of dismissing the appeal also gets quashed as a logical corollary. The applicant is entitled to reinstatement, subject however, to the refund of the GP Fund if any drawn by him as a part of the terminal benefits. If commutation has been already made, the same shall be refunded in one lump sum within a reasonable period from the date of reinstatement. The period from the date of compulsory retirement till the date of reinstatement shall be treated as period of suspension for which the applicant shall be entitled to the subsistence allowances as per rules and the amount of pension drawn b him during the period shall be duly adjusted and any amount in excess of subsistence allowances shall be recoverable from the applicant's future salary in installments. It is however; open to the respondent to consider imposing the*

penalty as proscribed for secondary level of misconduct in respect Passing Signal On as contained in the DO letter dated 12.06.1998.

18. *The above drill shall be performed within a period of six months from the date of communication of this order. Under the circumstances, no cost.*

4. The aforesaid order dated 14.03.2006 was challenged by the respondents before the Hon'ble High Court of Allahabad by filing Writ-A No.28683 of 2006, the said writ petition was dismissed by the Division Bench of Hon'ble High Court on 20.09.2016 with the following observation:-

- "3. *Having gone through the entire writ petition, we do not find any ground entitling the petitioner for grant of any of above reliefs. No interference, therefore, is called for.*
4. *Dismissed.*
5. *Interim order, if any, stands vacated."*

5. As of now the order of this Tribunal dated 14.03.2006 has attained the finality and by filing present OA applicant is seeking a direction to the respondents to pay him all the retiral benefits and arrears. In this regard he has also moved a representation dated 18.01.2018 (Annexure A-5).

6. Counsel for the applicant has, further, stated that grievance of the applicant would be redressed if a direction is given to the respondents to decide his pending representation dated 18.01.2018 within a stipulated period of time.

7. In view of the prayer made by counsel for the applicant to decide his pending representation no useful purpose will be served by keeping this OA pending. Accordingly, without commenting anything

on merits of the case, the instant Original Application is disposed off with the direction to the respondent No.4/ Competent Authority to decide the pending representation of the applicant dated 18.01.2018 (Annexure A-5) by a reasoned and speaking order within a period of 06 months from the date of receipt of certified copy of this order and communicate the decision so taken by the respondents to the applicant in writing. No costs.

(Justice Bharat Bhushan)
Member (J)

Sushil