

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P. No.55/2016
O.A. No. 3689/2012

Reserved on : 19.10.2016
Pronounced on : 24.10.2016

**HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)**

Om Prakash,
S/o Shri Ram Kishore,
Pointsman 'A',
Northern Railway,
Railway Station, Suratgarh.

Residential Address:
Railway Qtr. No.E51A,
Double Story,
Purana Loco, Railway Colony,
Suratgarh, Pin 335004. .. Applicant

(By Advocate: Shri G.D. Bhandari)

Versus

1. Shri Anil Kumar Singhal,
General Manager,
North West Railway,
Jaipur (Rajasthan).
2. Shri Rajiv Saxena,
Divisional Railway Manager,
North West Railway,
Bikaner (Rajasthan).
3. Shri Ganga Ram Agarwal,
Secretary,
Railway Board, Rail Bhawan,
New Delhi.
4. Shri Kailash Pawar,
Sr. Divisional Personnel Officer,

North West Railway,
DRM's Office,
Bikaner (Rajasthan).

.. Respondents

(By Advocate: Shri Kripa Shankar Prasad)

ORDER

By Hon'ble Mr. P.K. Basu

O.A. 3689/2012 filed by the applicant was disposed of vide order dated 23.04.2015 of this Tribunal, without expressing any opinion on the merits of the case of the applicant, by issuing the following directions:

- “(i) The Railway Board (respondent No.3) shall consider the claim of the applicant regarding waiver of damage/penal rent, as put forth by the General Manager, North Western Railway, Jaipur (respondent no.1) in the letter dated 21.10.2008 (Annexure A/2) and take appropriate decision within a period of three months from the date of receipt of copy of this order.
- (ii) As regards the applicants claim for treating the intervening period from 19.7.1997 to 13.8.2003, i.e., from the date of dismissal of the applicant from service to the date of his reinstatement in service, as spent on duty, the General Manager, North Western Railway, Jaipur (respondent No.1) shall call for the applicant's representation dated 1.2.2008 (Annexure A/17) from the Senior Divisional Operation Manager, North Western Railway, Bikaner, and shall consider the same and take appropriate decision within a period of three months from the date of receipt of copy of this order.
- (iii) As regards the reliefs claimed in paragraph 8(iii) & (iv) of the O.A., the applicant, if so advised, may make a detailed representation to the competent authority. If such a representation is made by the

applicant, we hope and trust the competent authority will consider the same and take appropriate decision within a period of three months from the date of receipt of the applicant's representation."

2. The respondents in their reply have stated that following actions have been taken:

- (a) Vide letter dated 08.07.2016, after examining the matter in detail, keeping in view the powers of Railway Board to relax the rules and judgments of the Hon'ble High Court of Delhi in CWP 5057/1999, the waiver of damage/penal rent was not found feasible. This was communicated to the applicant vide letter dated 08.07.2016.
- (b) Vide letter dated 06.07.2016, the Railway Board has taken a decision to treat the period from 19.07.1997 to 13.08.2003 as deemed suspension and also directed payment of Subsistence Allowance amounting to 50% leave salary on average pay for this period.
- (c) Despite direction of the Tribunal and letter addressed to the applicant, since he did not file any representation pertaining to the 3rd direction of the Tribunal, no action could be taken.

3. Learned counsel for the applicant raised the following issues:

- (i) While disposing of the request for waiver of penal/damage rent, the respondents have not considered letter dated 21.10.2008, but instead have quoted High Court's order in CWP 5057/1999, contents of which have not been disclosed. Therefore, they have not complied with the 1st direction of the Tribunal.
- (ii) Since the applicant was finally awarded a punishment of censure and as per Department of Personnel & Training's O.M. dated 03.12.1985, period of suspension has to be treated as duty in case of minor penalty, the respondents have acted against this DoPT instruction. It is also argued that instead of 50% of pay during suspension period, after 90 days' period it should have been increased to 75%, which has also not been done.
- (iii) No order has been passed on the 3rd direction of the Tribunal regarding reliefs claimed in para 8 (iii) and (iv) of the O.A.

4. In our opinion, in compliance of the directions of the Tribunal, the respondents have taken action on all three issues on which directions were issued, and we hold that substantial compliance has been done. In case, the applicant has any grievance against these orders passed by the respondents, that can only form cause of action in a fresh O.A. and cannot be debated in the present C.P. as has been attempted by the learned counsel for the applicant, as stated above.

5. In view of this, we close the CP and notices are discharged.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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