

Central Administrative Tribunal Principal Bench, New Delhi

C.P. No.791/2015 in O.A. No.1630/2012

Thursday, this the 10th day of November 2016

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)

Rashid Ahmad s/o Mr. Inayat Husain
r/o 59 Pul Prahladpur
New Delhi

..Applicant

(Mr. R.K. Shukla, Advocate)

Versus

1. Mr. A.K. Puthia
The General Manager
Northern Railway, Headquarter
Baroda House, New Delhi
2. Mr. Arun Kumar
The Divisions Railway Manager
Northern Railway
DRM Office, State Entry Road, Paharganj,
New Delhi
3. Mr. Itwari Singh
The Senior Divisional Signaling
Telecom Engineer
Northern Railway
DRM Office, New Delhi
4. Mr. Rajnesh Gupta
The Divisional Signaling Telecom
Engineer (Signal)
Northern Railway
DRM Office, New Delhi

..Respondents

(Mr. Kripa Shanker Prasad, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

The present contempt proceedings emanate from the directions passed by this Tribunal in O.A. No.1630/2012 vide judgment dated 20.08.2015. The following directions were issued by the Tribunal while disposing of the O.A.:-

“12. We, in the above facts and circumstances of the case quash and set aside the impugned Charge Memorandum dated 12.09.2002, the report of the Enquiry Officer dated 11.04.2003, order of the Disciplinary Authority

dated 17.06.2003 and the Appellate Authority's order dated 29.03.2005. Consequently, the Respondents shall withdraw the punishment imposed upon the Applicant with all consequential benefits. The aforesaid direction shall be complied with, within a period of 2 months from the date of receipt of a copy of this order."

2. The respondents have filed the compliance affidavit dated 02.06.2016. In paragraph 4 of the said affidavit, a reference is made to the compliance report submitted by the respondents and annexed as Annexure CP-1. The said compliance report reads as under:-

"Sub: Compliance report in the case of Sh. Rashid Ahmad s/o Sh. Niyamat Hussain, MCM.SSE/Sig/TKD. DOR. 31-1-2008

Ref. O.A. No.1630/2012

In reference of O.A. No.1630/2012 the compliance report given as below:-

- 1) Revised PPO No.0108020036 provided to applicant.
- 2) Difference of DCRG Amount – 10314/-. Draft no.061171 - original copy enclosed.
- 3) Leave encashment Amount 6604/- Draft No.061172 - original copy enclosed."

4. This compliance has been followed by revised Pension Payment Advice (Annexure CP-2). The respondents have also placed on record copies of cheque Nos.061171 and 061172, both dated 01.03.2016, as Annexures CP-3 and CP-4, whereby the amounts of `10313/- and `6604/- have been disbursed to the applicant.

5. Mr. R.K. Shukla, learned counsel, on the last date of hearing, argued that there is no complete compliance of the judgment of this Tribunal. He was permitted to file an affidavit in this regard. He has accordingly filed an affidavit dated 08.11.2016, wherein it is stated that the consequential benefits granted by the Tribunal, *inter alia*, include the promotion as well, whereas the respondents have not granted any promotion to the applicant. With a view to impress upon his

contention, he has referred to the prayer 8 (a) made in the O.A., which reads as under:-

“(a) To quash and set aside the impugned orders dated 17.06.2003 and order dated 07.06.2011 thereby commanding the respondents to bring the applicant in his original position as he would have been given, had he not been penalized by way of imposition of penalty dated 17.06.2003 and respondents may further be directed to grant all consequential benefits regarding promotion etc. which was denied in view of imposition of penalty and arrears in respect of imposition of penalty and arrears in respect of imposition of penalty may be ordered to be paid and his pension may be revised accordingly.”

6. It goes without saying that in the prayer made in the O.A. the applicant did pray for his promotion. However, when the O.A. was decided the Tribunal considered the issue of penalty (disciplinary proceedings). It is relevant to notice the observations of the Tribunal made in paragraph 1 of the order, which read thus:-

“The Applicant in this Original Application is aggrieved by the disciplinary proceedings culminated in the imposition of punishment of withholding of increment permanently for two years upon him.”

7. We have carefully gone through the judgment. There is not even a whisper of promotional aspect, as prayed by the applicant in the O.A. It seems that the applicant did not argue the question of promotion at all, nor are there any observations/findings to this effect in the judgment. Thus the directions issued by the Tribunal in respect to the consequential benefits clearly indicate that the same relate to the disciplinary proceedings, i.e., imposition of penalty. We do not find that there has been any discussion on the question of promotion in the entire judgment, and thus the directions with regard to the consequential benefits are in the context of withdrawal of the penalty imposed upon the applicant, i.e., withholding of increment permanently for two years, and since the directions were to withdraw the penalty, the consequential benefits have to be understood in the said context, i.e., restoration of the salary and payment thereof. The

contention of the applicant that the said directions include the promotion cannot be read out in the judgment and thus the prayer is declined.

8. In any case, in the contempt proceedings, the Tribunal is only required to implement the directions as issued by it. We do not find that there has been any violation of the directions of the Tribunal after the compliance report has been filed by the respondents. The proceedings are dropped.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

November 10, 2016
/sunil/