

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2379 /2016

New Delhi, this the 08th day of October, 2018

Hon'ble Mr. Pradeep Kumar, Member (A)

Gurdhyan Singh aged about 53 years
Son of Shri Hardit Singh, Ex-Booking Clerk,
Faridkot Railway Station, Ferozpur Division,
Northern Railway, Ferozpur (Punjab)
Resident of : C/o Ms.Karamjit Karu,
Fly. Qr. No. 74/A-6, Motia Bag, Railway Colony,
Tis Hazari, Delhi-54.Applicant

(Present: Mr. H.P.Chakravorty for Mr. P.S. Khare)

Versus

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi-110001.
2. The Divisional Railway Manager,
Northern Railway, Ferozpur Division. .. Respondents

(Present: Mr. Shailendra Tiwary)

ORDER (ORAL)

1.0 In instant case of the applicant, on account of serious charges he was awarded the punishment of removal from service vide order dated 13.10.2006. Thereafter the employee preferred an appeal to the Appellate Authority who in turn gave following orders (Annexure A-1), which reads as under:-

"The undersigned (Appellate authority) has carefully considered your appeal and decided the same with the following speaking orders:-

Charge elaborated in major penalty proceedings have been established in enquiry proceedings. The element of malafide intention has been proved. Sh. Gurdhyan Singh has remained a mute spectator in entire proceedings and not even submitted written defence. Further this apathy has been carried when enquiry proceedings were handed over to him for any representation or bringing new facts. His representation following removal is based on mercy rather than on facts. In order to make public interface corruption free, I believe that allegation substantiated in DR enquiry needs no reconsideration unless new facts are brought to the contrary, Shri Gurdhyan Singh has exhibited a corrupt mind and has been taken up on seventeen occasions. The punishment imposed by Disciplinary Authority meet at the ends or justice and no interference is called for. Since he has family to support, the pensionary benefit will incur."

The representation was made to Revising Authority also and orders of Appellate Authority were upheld.

2.0 The applicant pleaded that despite the order of the Appellate Authority, he has not been paid any pensionary benefit so far. Accordingly, he had approached the Tribunal earlier vide OA No. 2684 /2012, wherein the judgment was pronounced on 28.10.2014, and the judgment is reproduced as follows:-

"14. We are also of the considered view that the technicalities and procedural aspects of the enquiry will not arise in a case where the Applicant himself has not denied the findings

against him. Whether the procedural aspect of the enquiry in this case was proper or not, the Applicant has not denied his guilt by not filing representation against it, even when an opportunity was given to him to do so. That was the reason why, in his appeal against the order of the Disciplinary Authority he has only requested the Appellate Authority to excuse him for the misconduct committed by him. Therefore, the Applicant cannot resort to the technical fault in conducting the enquiry to escape himself from the misconduct for which he was given the appropriate punishment. We, therefore, do not find merit in this case and accordingly the same is dismissed.

15. There shall be no order as to costs."

3.0 Since, despite these orders, no pensionary benefit was granted to the applicant, he preferred the instant OA for following reliefs:-

" 8.1 to allow the OA and direct the respondents to release the pensionary benefits viz. Pension, gratuity, leave encashment, Group Insurance etc. including Provident Fund w.e.f. 13.10.2006 as detailed in para 4 & 5 with arrears and interest thereon @ 18 % p.a. compounded yearly; and

8.2 to pass any such other and further order or direction as the Hon'ble Tribunal may deem just and proper as per facts and circumstances of the case besides the cost and expenses of present litigation to the extent of Rs.55,000/-."

4.0 The respondents pleaded that the instant case of employee involves removal from service and since he has been removed from service, he is not entitled for any

pensionary benefits in accordance with the rules. However the competent authority in the respondents' department, has considered and granted him compassionate allowance. Delay has occurred as applicant was always seeking normal pension, which is not permissible in this case. Now, relevant papers have been signed by applicant and compassionate allowance, at Rs.3500/- per month as per 6th CPC, has been sanctioned and orders also issued by the respondents vide PPO dated 25.09.20018. The relevant rule 41 of CCS Pension Rules reads as under:-

" 41. Compassionate Allowance

- (1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity:-

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a Compassionate Allowance not exceeding two thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensate pension.

- (2) A Compassionate Allowance sanctioned under the proviso to sub-rule(1) shall not be less than the amount of (Rupees three thousand five hundred) per mensem."

Respondents had mentioned that this admissible allowance is being revised as per 7th CPC and is also

under process and the same shall be sanctioned within a period one month.

The respondents thus pleaded that in compliance to the order of Appellate Authority, the PPO has since been issued on 25.09.2018 and nothing further is feasible in the instant OA.

5.0 The matter has been heard at length. The instant case is of the removed employee from service. He is entitled only a consideration for compassionate allowance pension as provided under relevant rules quoted in para 4.0 above which has since been accorded and PPO issued.

In respect of Provident Fund, Respondents will pass a speaking and reasoned order for all contribution made by applicant while he was in service at all places including Firozpur and Delhi Division within a period of eight weeks. If there is any amount payable, it be paid alongwith GPF rate of interest from date of removal till payment. A copy of this order be supplied to the applicant also.

Accordingly, the instant OA is disposed off with these directions. No orders as to costs.

**(Pradeep Kumar)
Member (A)**

/mk/

