

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3407 of 2016

This the 2nd day of January, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Sh. Gurdeep Singh,
s/o Shri Fateh Singh,
Age about 61 year,
Retd as DMS
Under Deputy CMM,
Northern Railway,
Shakurbasti, Delhi.

(By Advocate : Shri M.S. Reen)

....Applicant

VERSUS

Union of India & others : through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Chief Materials Manager,
Northern Railway,
GM's Office,
Baroda House,
New Delhi-110001.
3. The Deputy Chief Materials Manager,
Northern Railway,
Shakurbasti, New Delhi.

.....Respondents

(By Advocate : Shri Kripa Shanker Prasad)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “8.1 That this Hon’ble Tribunal may graciously be pleased to allow this original application and set-aside the impugned orders dated 25.6.2015, 30.6.2015, 1.8.2016 & 8.8.2016 passed by the respondents with all consequential benefits.
- 8.2 That the Hon’ble Tribunal may graciously be pleased to allow this original Application and direct the respondent to restore back the pay of the applicant 17,880/- and fix all retiral benefit in the basic pay of Rs.17,880/- with all consequential benefits including arrears of pay in the interest of justice.
- 8.3 That the Hon’ble Tribunal may graciously be pleased to allow this Original Application and direct the respondents to pay the with-held gratuity along with 18@ simple interest without any delay.
- 8.4 That any other or further relief which this Hon’ble Tribunal may be deem fit and proper under the circumstances of the case may also be granted in favour of the applicant.
- 8.5 That the cost of the proceedings may also be awarded in the favour of the applicant.”

3. During the course of hearing, learned counsel for the applicant besides pleading the grounds to challenge the impugned orders has drawn our attention to the fact that the present applicant retired on 31.10.2015 and the impugned penalty order has been passed on 25.6.2015 against which the applicant submitted his appeals dated 5.8.2015 and 26.8.2015 to the appellate authority and the same were rejected vide order dated 1.8.2016 by an authority not competent to decide the same, as the applicant stood retired

on 31.10.2015 and in such an eventuality, the competent authority as per rules is the President of India and not the authority which had rejected the appeals of the applicant which were preferred by him before his retirement.

4. This Court also raised the query to the said effect to the counsel for the respondents, who in turn, submitted that the appeals of the applicant have been decided by the Chief Material Manager vide order dated 1.8.2016 and has not disputed the fact that the applicant's appeal has not been decided by the President of India.

5. In view of the aforesaid facts and circumstances of the present case, the appellate order dated 1.8.2016 is quashed and the respondents are directed to pass a fresh order on the appeals of the applicant as per rules. If after the final decision, the applicant is still aggrieved, he is permitted to approach this Tribunal in a fresh OA, if so advised, in accordance with the rules.

6. In the result, the present OA is partly allowed in above terms. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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