

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/391/2019

Dated: 17/07/2019

Between

G. Gnansekharan, S/o. Govinda Swamy,
Age 63 years, (Retd) XEN/1/C/NDL,
H.No.9, 12th Cross, Manjunath Nagar,
Behind Prasanna Cine Theatre,
Near Magadi Metro Railway Station,
Bangalore 560 023.

... Applicant

AND

1. The Union of India rep. by its
Secretary, Ministry of Railways,
Rail Bhavan, New Delhi.
2. Railway Board rep. by its
Chairman, New Delhi.
3. The General Manager,
South Central Railways,
3rd floor, Rail Nilayam,
Secunderabad.
4. The General Manager,
Personnel Department,
South Central Railways,
Secunderabad.

... Respondents

Counsel for the Applicant

: Mr. K. Dhananjaya Naidu

Counsel for the Respondents

: Mr. S.M. Patnaik, SC for Railways

CORAM :

Hon'ble Mr. A.K. Patnaik, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

[A.K. Patnaik, Judl. Member]

Heard Sri K. Dhananjaya Naidu, learned counsel for the applicant and Sri S.M. Patnaik, learned Standing Counsel for the official respondents, in extensor.

2. This O.A. has been filed u/Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

- To quash and set aside the impugned order of President's sanction for institution of departmental proceedings vide order No.E(O)I-2018/ PU-2/ SCR/19 dated 21.03.2018 and consequent issuance of charge memorandum on the same dated 21.3.2018 and further appointing an inquiry officer vide order No.SCR/P-HQ/426 (a)/W-3/Conf/109 dated 20.03.2019 along with all its adverse consequences and by declaring impugned Articles of charges and all subsequent proceedings as illegal, null and void.
- To direct the respondents to pay the cost of litigation
- To direct the respondent not to withhold any benefit and pay at par with others as if the impugned order never existed.
- To pass any other direction as this Hon'ble Tribunal thinks fit and proper in the facts and circumstances of the case to save the applicant from harassment by the impugned orders.

3. Sri K. Dhananjaya Naidu, learned counsel for the applicant drew our attention to the provisions made under the Government of India, Ministry of Railways (Railway Board) Railway Services (Pension) Rules, 1993 in which there is a specific provision under Rule 9(2)(b) which reads as under:

9(2)(b) If not instituted while the railway servant was in service, whether before his retirement or during his re-employment-

- i. shall not be instituted save with the sanction of the President;
- ii. shall not be in respect of any event which took place more than four years before such institution; and
- iii. shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which

and order in relation to the railway servant during his service.ö

4. On being questioned, the learned counsel for the applicant submitted that quoting the aforesaid provision, the applicant has already ventilated his grievance (annexed at page 37 of the O.A) to the Director (Estt.), Railway Board, who has not been arrayed as a party respondent in the instant O.A. Therefore, in the absence of such a party, the said representation cannot be directed to be disposed of.

5. However, on the sincere prayer made by the learned counsel for the applicant, we dispose of the O.A., by granting liberty to the applicant to make a comprehensive representation, enclosing all these documents, if so advised, reiterating the earlier representation, to Respondent No.3 within one week from the date of receipt of this order. If any such representation is preferred, Respondent No.3 shall consider the same as per the rules and regulations in force, particularly keeping in mind Rule 9(2)(b) of Railway Services (Pension) Rules 1993 and communicate the result thereof by way of a reasoned and speaking order, within a period of four weeks from the date of receipt of such representation. We also make it clear that till then, the respondents shall not proceed further as per the charge memo under Annex.A-II. If the outcome of the consideration is not palatable, the applicant is at liberty to approach the Tribunal.

6. There shall be no order as to costs.

(B.V. SUDHAKAR)
pv **ADMN. MEMBER**

(A.K. PATNAIK)
JUDL. MEMBER