

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A. No. 339/2019

This the 27th day of November, 2019

Shri Rukman
Son of Late Shri Dularam Motwani
Male, Aged 58 years
Ex.PWI Gr.I of the respondents.
Residing at Block No.L, 10th floor,
2nd Pent House, Gurukul Road,
Indraprasth Tower, Nr. Drive-in-Cinema
Ahmedabad – 380 054. Applicant
(By Advocate : Shri M.S.Trivedi)

VERSUS

1. The Executive Director
Government of India
Ministry of Railway,
Railway Board, Railway Bhavan,
New Delhi 110 00 1.
2. The General Manager
Western Railway
Churchgate, Mumbai 400020.
3. The Divisional Railway Manager,
O/o. DRM, Western Railway
Divisional Office, Kalupur
Nr. Chamunda Bridge, Asarwa
Ahmedabad 380 002. Respondents

ORDER (ORAL)

Per : Hon'ble Shri M.C.Verma, Judicial Member

Matter is at the motion stage hearing. The brief facts of the case is that vide Order dated 27.09.2013 whereby penalty of withholding of 100% monthly pension and the entire gratuity was inflicted, was impugned by the applicant in OA No. 728/2016

and while disposing said OA, on 28.02.2017, the Tribunal did quash the Order dated 27.9.2013 on the ground that before passing the order, impugned in the OA, copy of advise of UPSC was not supplied to the applicant. In addition to quashing of impugned order, the Tribunal also gave liberty to the applicant to submit the representation against UPSC's advice and directed the respondents to consider the same. Para 11 of the Order dated 28.02.2017 passed in OA No.728/2016 reads: ***“The respondents are directed to allow the applicant to make a representation in respect of the UPSC’s advice. The applicant is at liberty to submit his representation against the UPSC’s advice within fifteen days from the date of receipt of a copy of this order to the Disciplinary Authority and the same shall be duly considered by the Disciplinary Authority and to pass appropriate orders strictly in accordance with law within a period of three months from the date of receipt of the written representation of the applicant.”***

2. The Order dated 28.02.2017 passed by the Tribunal was challenged in R/SCA No.401/2018 by the respondents of OA and said R/SCA was dismissed by the Hon'ble High Court on 16.01.2019. When the matter was pending on the file of Hon'ble High Court, applicant did file another OA No.349/2017 for grant of pension and said OA was disposed of on 27.09.2018 observing: ***“Considered the submissions. This OA stands***

disposed off with liberty to the applicant that if after final Order of Hon'ble High Court he feels aggrieved by the act of respondents in implementation of or relating to their act pursuant to final Order of Hon'ble High Court, he may agitate the matter afresh before appropriate forum. MA No.71/2018 also stand disposed off.”

3. The applicant now has preferred instant OA having prayer as under :

“(A) That the Hon’ble Tribunal be pleased to allow this petition.

(B) That the Hon’ble Tribunal further be pleased to quash and set aside the action on the part of the respondents regarding non payment of provisional pension to the applicant which is stopped by the respondents from October, 2013 in pursuant to order dated 27.9.2013 of the respondents, despite the fact that the said order of the respondents quash and set aside by the Learned Tribunal and which is upheld/ confirmed by the Hon’ble High Court of Gujarat at Ahmedabad.

(C) That, the Hon’ble Tribunal further be pleased to direct the respondents to give provisional pension with arrears and 12% interest thereon by way of allowing the present petition with costs.

(D) Such other and further relief/s as may be deemed just and proper in view of the facts and circumstances of the case may be granted.”

4. Heard. The pleadings does not reflect whether in consonance of Order dated 28.02.2017 passed in OA No. 728/2016 any representation in respect of the UPSC’s advice was ever submitted by the applicant or if was submitted what order thereon was passed or still it is pending consideration. Copy of any such representation is also not on the record of this OA. Having taken note of this fact, it is inquired whether after

quashing of Order No.E(D&A)2009 AE 10-5 dated 27.09.2013 in OA No.728/2016, any representation was preferred by the applicant and learned counsel made statement at Bar that applicant has submitted the representation on 18.03.2017. As noted above, copy of the representation is not on record nor there is any order passed on the said representation.

5. Having taken note of entirety, it would be appropriate to dispose of the OA, at this stage of motion hearing, by directing the respondents that if any representation dated 18.3.2017, as stated at Bar, has been given by the applicant, the same may be disposed of by passing a speaking order within a period for six weeks from the date of receipt of copy of this order and that simultaneously decision about pension for intervening period be also taken.

6. With the above directions, the OA stands disposed of.

(**M.C.Verma**)
Member (J)

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