

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/1087/2015

Dated: 09/09/2019

Between

T. Krishnaveni,
W/o. late T. Seshachalapathi,
S/o. T. Venkataswamy,
Aged about 75 years,
Retd. Chief Personnel Officer,
South Western Railway,
R/o.E-4, 3 Crescent Road,
Sainikpuri, Secunderabad.

... Applicant

AND

1. The Union of India rep. by
the Secretary, Railway Board,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Director/E(O)I, Railway Board,
Ministry of Railways,
Rail Bhavan, New Delhi.

... Respondents

Counsel for the Applicant : Mr. Siva
Counsel for the Respondents : Mr. S.M. Patnaik, SC for Railways

CORAM :

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs. Naini Jayaseelan, Admn. Member***

ORAL ORDER
{(Per Hon'ble Mrs. Naini Jayaseelan, Member (Admn.))}

The applicant joined the Indian Railways as a Class I Officer in the Indian Railway Service of Engineers on 15.09.1975, after having worked in the Indian Navy. He retired on 30.04.2001 as Chief Personnel Officer, South Western Railway, Hubli.

2. While working as Chief Engineer/Construction in South Central Railway, the applicant was served with a charge memo on 20.03.2001, containing two Articles of charge, relating to the works connected with the gauge conversion of the Hubli ó Londa ó Goa Section. The applicant submitted his written defence on 16.07.2001. However, the Disciplinary Authority did not accept his representation and appointed an Inquiry Officer, who is a retired General Manager of the Rail Coach Factory, to inquire into the said charges. The Inquiry Officer held that the charge under Article-I is proved and the charge under Article-II is partially established. The Disciplinary Authority, while agreeing with the findings of the Inquiry Officer on the first charge, found that the finding in respect of the second charge, held to be partially proved, is unacceptable and decided not to accept the finding of the Inquiry Officer in so far as the second charge is concerned. The reason for disagreement was the finding of the Inquiry Officer that other officers were also responsible for the estimated loss, does not absolve the applicant. As required under the extant rules, the Union Public Service Commission (UPSC) was consulted and based on its advice, the Disciplinary Authority imposed a penalty of 50% cut in the monthly Pension on a

permanent basis vide Memo dated 23.07.2004. The applicant submitted a Review Petition on 15.09.2004 and the same was rejected by an order dated 29.10.2004.

3. Aggrieved by the said orders, the applicant filed had filed O.A. No.46/2005 and the Tribunal vide its order dated 16.02.2009, partly allowed the same by setting aside the orders of the Disciplinary Authority and Revisionary Authority and remitted the matter back to the Disciplinary Authority for re-consideration of the punishment. The respondents, in the meanwhile, filed Writ Petition No.11021/2009 before the Hon'ble High Court of Andhra Pradesh and the Hon'ble High Court stayed the operation of the order of the Tribunal as an interim measure. The said Writ Petition and the Petition filed by the applicant, seeking vacation of the interim order granted in the Writ Petition filed by the Union of India, were heard together and were disposed of by judgement dated 05.03.2014. The operative portion of the said judgement is as under:

“.....However, considering the overall facts and circumstances of the case, it is not a case of corruption or causing loss to the Government or that the applicant inflated rates for any extraneous consideration or that he had any hand-in-glove with the contractors. So the punishment of 50% cut in pension on permanent basis is not warranted. Hence, the matter is remitted to the Disciplinary Authority for deciding the appropriate punishment to the proved misconduct of the Applicant....”

4. Based on the directions of the Hon'ble High Court, the 2nd respondent vide its order dated 04.03.2015 modified the penalty order of 50% cut in Pension on permanent basis to that of 10% cut in Pension on permanent

basis. However, the said order stated that the relief will take effect prospectively.

5. The present O.A. has been filed with the prayer that the modified penalty order should date back to the date of the original order and not with prospective effect. More so, the applicant has stated in his O.A. that a cut in Pension is liable to be imposed only when there is a pecuniary loss to the Government and the respondents, the Hon'ble High Court and the UPSC have agreed with the contention of the applicant that there is no pecuniary loss caused to the respondents. Therefore, the reduction of penalty with prospective effect, is not sustainable.

6. Heard Sri Siva, learned counsel for the applicant and Sri S.M. Patnaik, learned Standing Counsel for the respondents.

7. During the course of arguments, learned counsel for the applicant brought to our notice that the applicant has since expired and his wife Smt. T. Krishnaveni has come on record as legal representative.

8. It is a settled position of law that in case the original penalty order is substituted by another penalty order, it should date back to the date of the original order and not with prospective effect.

9. In view of the above, the O.A. is allowed setting aside the stipulation in the order dated 04.03.2015 that the reduction of Pension by 10% permanently shall be prospective in effect. It is directed that the modified order of punishment would be effective from the date on which the

punishment was imposed at the first instance. The respondents are hereby directed to compute the arrears of Pension, treating the imposition of penalty of 10% cut in Pension on permanent basis from the date of original order of the Disciplinary Authority i.e. 23.07.2004, and release the same to the wife of the applicant, who has been brought on record now, within two months from the date of receipt of this order. MA/21/487/2016 shall stand disposed of. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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