

**Central Administrative Tribunal
Principal Bench**

**OA No.96/2014
MA No.122/2014**



New Delhi, this the 3rd day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri Vibhishan Bhagat,
S/o Shri Tek Chand Babbar,
Ex. Senior Cashier,
Northern Railway,
Jammu Tawi,
Office of Deputy Chief Accounts Officer (Cash & Pay),
Northern Railway,
Multi-Storey Building,
Railway Station,
New Delhi.
R/o 40-A1, Sri Ram Road,
Railway Colony,
Civil Lines, Delhi-54.

...Applicant

(By Advocate : Shri H.L. Rai for Shri M.C. Kashyap)

Versus

Union of India Through :

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Financial Adviser & Chief Accounts Officer,
Northern Railway,
Baroda House,
New Delhi.
3. The Deputy Chief Accounts Officer (Cash & Pay),
Northern Railway,
Multi-Storey Building,
Railway Station,
New Delhi.



4. Shri Mukesh Kumar,
Enquiry Officer,
Office of Divisional Railway Manager,
Room No.402, 4th Floor,
State Entry Road, New Delhi.

...Respondents

(By Advocate : Shri Kripa Shankar Prasad with Ms. Ekta Rani)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was working as Cashier in the Northern Railway. He was issued a charge memo dated 28.07.2001, alleging certain acts of mis-appropriation. Thereafter, it was noticed that CBI also instituted proceedings against him. Taking note of that fact, the Disciplinary Authority (DA) passed an order dated 31.03.2006, withdrawing the major penalty charge memo dated 28.07.2001 and reserving the liberty to take necessary steps, depending upon the findings of the CBI investigation. The applicant retired from service on 31.01.2013, on attaining the age of superannuation. This OA is filed challenging the order dated 31.03.2006.

2. The applicant contends that having issued an order dated 31.03.2006, the respondents issued charge memo



dated 03.04.2006, and despite that, no steps whatever were taken. It is also stated that on the pretext of the pendency of the disciplinary proceedings, they have not released him the regular pension and other pensionary benefits.

3. The respondents filed counter affidavit stating that the necessity to issue impugned order arose on account of the initiation of the proceedings by the CBI. It is silent as to what made the respondents to issue a charge memo on 03.04.2006, i.e. within three days after impugned order was passed. Extensive reference is made to the steps that have taken place in the disciplinary proceedings. It is also stated that the Court of Special Judge, Anti Corruption, CBI, Jammu & Kashmir, convicted the applicant for the offences punishable U/s 409, 467, 468 & 477-A, 120-B RPC and Section 5(1)(C) r/w Section 5(2) of J&K PC Act, 2006, through his judgment dated 29.08.2014 and sentenced him for simple imprisonment of four years on each count and imposed consolidated fine of Rs.4,00,000.



4. We heard Shri H.L. Rai for Shri M.C. Kashyap, learned counsel for applicant and Shri Kripa Shankar, learned counsel for respondents.

5. The applicant faced charges of corruption. Though initially the charge sheet was issued in the year 2001, the same was withdrawn through the impugned order, in view of the investigation undertaken by the CBI. Curiously enough, the charge memo was issued within three days thereafter. Though, the OA is silent about the developments in the disciplinary proceedings, it is stated in the counter affidavit that the inquiry was concluded and a report was also submitted. Further development is that in the year 2014 itself, the applicant was convicted and sentenced for the offences alleged against him.

6. Since the applicant retired from service, the respondents have to pass necessary orders either on the basis of the report submitted by the Inquiry Officer or on the basis of conviction and sentence passed against the applicant. Neither of the parties are able to inform us about the developments in that direction.



7. We, therefore, dispose of the OA, directing the respondents to communicate to the applicant, if any orders are passed either on the basis of the report submitted by the Inquiry Officer or on the basis of the judgment in the criminal case, within a period of four weeks from today. If no such orders are communicated, they shall be under obligation to release the pensionary benefits.

Pending MAs, if any, shall stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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