

**Central Administrative Tribunal
Principal Bench**

CP No.69/2019
In
OA No.3340/2013

Order Reserved on :21.10.2019

Pronounced on:14.11.2019

Hon'ble Mr. Pradeep Kumar, Member (A)
Hon'ble Mr. Ashish Kalia, Member (J)

Uma Shankar,
S/o Ganpati,
Ex-Khallasi,
Under Sr Section Engineer/SIG
Northern Railway,
Railway Station Bathinda
R/o Uma Shankar
House No.E-229,
Sector-9, Vijay Nagar,
Ghaziabad, U.P.

.. Applicant

(By Advocate : Shri G.D. Bhandari)

Versus

1. Shri T.P. Singh,
General Manager,
Northern Railway,
State Entry Road,
New Delhi.
2. Sh. R.N. Singh,
Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. Shri Jagdish Chander Gupta,
Sr. DSTE/SIG,
DRM's Officer, NR,
State Entry Road,
New Delhi.

.. Respondents

(By Advocate : Shri V.S.R. Krishna)

ORDER

Mr. Pradeep Kumar, Member (A):

Applicant was served a major penalty charge-sheet on 22.08.2006, while he was still in service. The charge was unauthorized absence from duty from 09.02.2003 to 23.06.2006. Enquiry was held and charge was proved vide report dated 07.11.2011. While enquiry was going on, he retired on attaining the age of superannuation on 20.09.2009.

The Disciplinary Authority (DA) contemplated imposing a punishment of cut in pension by 10% with the stipulation that period of absence will be treated as leave without pay (LWP) and non-qualified. However, the final punishment order dated 14/24.07.2012 was modified and reads as under:

“The Government displeasure is being conveyed to you for charges as unauthorized absent from duty w.e.f. 09.02.2003 to 23.06.2006 found proved. The period from 09.02.2003 to 23.06.2006 as LWP and non qualified.

Sd/
DSTE/Signal
New Delhi”

2. Applicant preferred an appeal dated 13.08.2012 to the Appellate Authority (AA). A legal notice dated 01.11.2012 was also served on General Manager, Northern Railway who is superior to AA. There being no response, he preferred OA No.3340/2013, pleading that punishment was not legal and

valid. He also prayed that full salary and allowances be paid for the entire period. At the time of imposition of penalty, he had already retired and thus punishment power could be exercised by President only. Keeping this in view, the OA was partly allowed vide order dated 17.11.2017. Relevant part of the order reads as under:

“11. In the light of our above discussion, we quash and set aside the impugned order dated 14/24.7.2012 (Annexure A-1) and remand the matter back to the respondents to submit a report containing the findings of the Disciplinary Authority and all other materials to the President for appropriate order, and to proceed further in the matter in accordance with the order to be made by the President on the report containing the findings of the Disciplinary Authority. The respondents are also directed to ensure finalization of the applicant's case within six months from today.

12. Resultantly, the O.A. is partly allowed to the extent indicated above. No costs.”

3. The applicant pleads that this order has not been complied with and preferred the instant Contempt Petition (CP).

4. The respondents submitted the compliance affidavit. It was pleaded that DCRG has been paid on 30.07.2019. All other retiral dues including full pension, have also been released at the time of retirement. Pension has been revised also as per 7th Central Pay Commission (CPC). Commutation of pension was not due as he has been paid full pension. Nothing remains to be paid. CP is thus not maintainable.

5. Matter has been heard at length. Shri G.D. Bhandari, learned counsel represented the applicant and Shri V.S.R. Krishna, learned counsel represented the respondents.

6. As a retired employee, disciplinary power needs to be exercised by Hon'ble President. There is no pleading that applicant was not on unauthorized absence in the said period. It is true that the disciplinary case has not been put up to Hon'ble President, but need for that would have arisen, had DA contemplated imposition of certain punishment. Instead the case was closed by conveying displeasure of Government.

7. As a result of disciplinary case and decision in OA No.3340/2013, the respondents have since released full retiral dues. Accordingly, the order by Tribunal has been practically complied with fully except the technicality of putting it up to Hon'ble President which was ordered. As already brought out, putting up to Hon'ble President was not required.

8. Accordingly, nothing subsists in this case. CP is closed. Notice is discharged.

(Ashish Kalia)
Member (J)

(Pradeep Kumar)
Member (A)

'San.'