

SUPREME COURT OF INDIA

Union of India (Uoi)

Vs.

G. Veerasamy

(S Phukan and S V Patil JJ.)

14.03.2002

ORDER

1. This appeal by special leave arises from the judgment of the central administrative tribunal, Madras bench in original application No. 750 of 1991. Respondent an employee of the railways was put under suspension and proceedings were drawn up. The disciplinary authority accepted the findings of the inquiry officer and imposed a penalty of compulsory retirement. An appeal being filed, the appellate authority modified the punishment and the order is quoted below:

"... Keeping in view his past service and purely on humanitarian ground, the penalty is modified as one of reduction to a next lower scale viz. Rs. 1200-2040 for a period of eighteen months. His pay is fixed at Rs. 1500/- in scale of Rs. 1200-2040."

2. Aggrieved by the said order, the respondent approached the central administrative tribunal and the tribunal passed the following order;

"(1) The sentence "his pay is fixed at Rs. 1500 in the scale of Rs. 1200-2040" in the order dated 16.8.1990 of the appellate authority is struck down. The order of the appellate authority is otherwise upheld."

3. To appreciate the contentions of the parties we quote the following relevant Rule 6 of the Railway Servants (Discipline and Appeal) Rules, 1968 which reads as under:

6. Penalties. - (1) The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a railway servant, namely: (1) censure;

(ii) withholding of his promotion for a specified period;

(iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the government or railway administration by negligence or breach of orders;

(iv) withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay;

Major penalty;

(v) reduction to a lower stage in the time-scale of pay for a specified period, with further direction as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the further increments of his pay;

(vi) reduction to a lower time-scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service;

....."

4. We also extract Rule 1322 of the Indian Railway Establishment Code. It reads as follows:

"1322. (F.R.) 28 pay on reduction to lower post. The authority which orders the reduction of railway servant as a penalty from a higher to a lower post or time-scale, may allow him to draw any pay, not exceeding the maximum of the lower post, or time-scale which it may think proper.

Provided that the pay allowed to be drawn by a railway servant under this rule shall not exceed the pay which he would have drawn by the operation of Rule 1313 (F.R.22) read with Clause (b) or Clause (c) as the case may be, of Rule 1320 (F.R.26).

5. Learned counsel for the appellant Union of India has submitted that reading Clause 6 of Sub-rule 1 of Rule 6 with Rule 1322 of the Indian Railway Establishment Code together, the disciplinary authority has power after imposing a punishment of reduction to lower time-scale to fix the pay. Learned counsel for the respondent in reply has submitted that the tribunal has rightly held that so doing amounts to double punishment.

6. The language of Clause 6 of Sub-rule 1 of Rule 6 of the rules, in our opinion, is clear. After reduction to the lower time scale the disciplinary authority has to fix the pay in terms of Rule 1322 of the Establishment Code. The establishment code clearly empowers the disciplinary authority to allow to draw any pay not exceeding the maximum of the lower post or time scale. We are unable to accept the reasoning of the tribunal which amounts to double punishment inasmuch as unless pay is fixed after reduction he may be entitled only to draw pay on the lowest of the time scale.

7. We are not able to accept the reasoning given by the tribunal and accordingly the order is set aside.

8. The appellate authority has passed the order dated 23rd May, 1990 and the said order was for a period of eighteen months. When this appeal was filed by the Union of India no stay was granted. In view of the above position and to adjust equity we direct that this judgment will not debar the respondent to get the benefit of the orders of the tribunal and if any payment has been made there shall be no refund.

9. The appeal is disposed of. No costs.