

(2025) 03 DEL CK 1040

In the Delhi High Court

Case No : Writ Petition (C) No. 3538 Of 2021 & Civil Miscellaneous Petition No. 10698 Of 2021

Union Of India Through The General Manager & Ors

APPELLANT

Vs

Sh. Gurdeep Singh

RESPONDENT

Date of Decision : 11-03-2025

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 9

Citation : (2025) 03 DEL CK 1040

Hon'ble Judges : C.Hari Shankar, J;Ajay Digpaul, J

Bench : Division Bench

Advocate : Bhagwan Swarup Shukla, Sarvan Kumar, Satyam Singh, H. P. Chakravorty

Final Decision : Allowed

Judgement

C.Hari Shankar, J

1. The respondent retired from the post of Depot Maintenance Supervisor in the Railways on 31 October 2015. Prior thereto, he was visited with a charge sheet on 14 May 2013. Inquiry proceedings, as a sequel thereto, culminated into an order passed against the respondent by the Deputy Chief Material Manager on 25 June 2015, by which he was imposed a penalty of reduction in pay by two stages with cumulative effect till retirement along with recovery of ₹ 6,16,190/-. The respondent preferred appeals against the said order on 5 August 2015 and 26 August 2015, which were dismissed by the Chief Material Manager by order dated 1 August 2016.

2. Aggrieved thereby, the respondent preferred OA 3407/2016 before the Central Administrative Tribunal "the Tribunal".

3. Before the Tribunal, the respondent contended that the Chief Materials Manager was not competent to decide the appeal as, in the interregnum, the respondent had retired on 31 October 2015, and the only competent authority

who could take action against him was the President of India.

4. Without examining the correctness of the said submission in law, the Tribunal has proceeded, by order dated 2 January 2019, to quash the Appellate Order dated 1 August 2016 and directed the petitioners to pass a fresh order on the respondents' appeal.

5. The Railways preferred a Review Application with MA 3258/2019 for condonation of delay in filing the review application. By order dated 7 October 2019, the Tribunal refused to condone the delay and accordingly dismissed MA 3258/2019 along with the review application preferred therewith.

6. Aggrieved thereby, the Railways have preferred the present writ petition before this Court.

7. We have heard Mr. Bhagwan Swarup Shukla, learned Central Government Standing Counsel for the Railways and Mr. Chakravorty, learned Counsel for the respondents.

8. We are of the opinion that the Tribunal has materially erred in passing the order dated 2 January 2019. The order of punishment against the respondent was passed before he retired from service. As such, the contention that the President alone could have passed the penalty order was fundamentally misconceived. Rule 9 of the CCS Pension Rules 1972 comes into play either where disciplinary proceedings are initiated against the employee after he retires or were initiated prior thereto but, culminated in an order of penalty after the employee retires. In either such case, the President alone can pass the order of either withholding or withdrawing pension.

9. In this case, the penalty order was passed while the respondent was still in service. As such, the learned Tribunal erred in accepting the respondent's contention that the President alone could have passed the penalty, or the appellate order.

10. The impugned order dated 2 January 2019, passed by the Tribunal as well as the subsequent order dated 7 October 2019, dismissing the review application are therefore quashed and set aside.

11. At this juncture, Mr. Chakravorty points out that he has preferred a Revision Application against the order passed by the Appellate Authority, which is presently pending before the Revisionary Authority in the Railways, which stands dismissed.

12. Mr. Chakravorty submits that he would be seeking his remedies against the said order. Reserving leave and liberty to do so in accordance with law, this writ petition is disposed of, by setting aside the impugned order dated 2 January 2019 in OA 3407/2016 passed by the Tribunal and impugned order dated 7 October 2019 in MA 3258/2019 in R.A. Application in O.A. 3407/2016.

13. The petition is allowed accordingly. No orders as to costs.