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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment : 09th January, 2020*

+ W.P.(C) 13342/2019

UNION OF INDIA AND ORS.

..... Petitioners

Through Mr. Jitender Kumar Singh, Standing
Counsel with Mr. Amit Kumar,
Advocate

versus

NARSI RAM RATAN

..... Respondent

Through Mr. S.P. Sethi, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

1. With the consent of the parties, the writ petition is set down for final hearing and disposal at the admission stage itself.
2. The petitioners are aggrieved by the decision dated 23.07.2019 rendered by the Central Administrative Tribunal (the "Tribunal"). The respondent had approached the Tribunal and sought the following reliefs:

“(i) *direct the respondents to release his settlement dues forthwith;*

(ii) *the respondents to pay interest on his settlement dues @ 18% per annum from the date of his superannuation till the date of final payment;”*

3. Mr. Jitender Kumar Singh, learned counsel for the petitioners, submits that the learned Tribunal has failed to take into consideration that the President's order dated 24.11.2016 does not debar the petitioners from making recoveries arising from non-handing over of the storage registers which were in the custody of the respondent. Counsel submits that while on the one hand, the Tribunal has allowed permissible items of deduction, i.e., damage rent, electricity charge and ECC loan but, by relying on the order of the President dated 24.11.2016, the Tribunal has rejected the prayer with regard to the recoverables of Railway Property Claim Balance amounting to Rs.4,73,630.50. It is contended that the order of the President nowhere draws a distinction between recoverables and non-recoverables.
4. Mr. S.P. Sethi, learned counsel for the respondent submits that the order of the President is clear to the extent that the respondent is not to be penalized and the charge proved against him is not grave enough to warrant any cut in his pensionary benefits. Counsel submits that the respondent is 71 years old and suffering from cancer; that he is in dire need of finances; however, the petitioners are harassing him for no good reason.
5. We have heard the learned counsels for the parties and considered their submissions.
6. Since the entire controversy between the parties revolves around the order of the President dated 24.11.2016, we deem it necessary to reproduce the same, which reads as under:

“ORDER

*The President has considered the report of the
Inquiry Officer in the disciplinary case of Shri N.R. Ratan,*

retd. Office Superintendent-II, under Sr. Section Engineer, P. Way.I, Kanpur, North Central Railway and the other case records in respect of the charges levelled against him vide Charge Memorandum of even number dated 30.07.2012.

2. The President has observed that the part of the charge that Shri N.R. Ratan failed to handover all the storage ledgers under his custody to the next incumbent Shri R.G. Mishra before his retirement is proved. However, the other part of the charge which supplies gravity to the misconduct that he created hindrance to railway affairs has not been proved.

3. The President has, therefore, held that the charge proved against Shri N.R. Ratan is not grave enough to warrant cut in his pensionary benefits and has ordered that the charge levelled against him be dropped.

4. This is hereby done.

5. The said Shri N.R. Ratan is required to acknowledge receipt of this order in writing.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Sd/-

(Sunil Kumar)

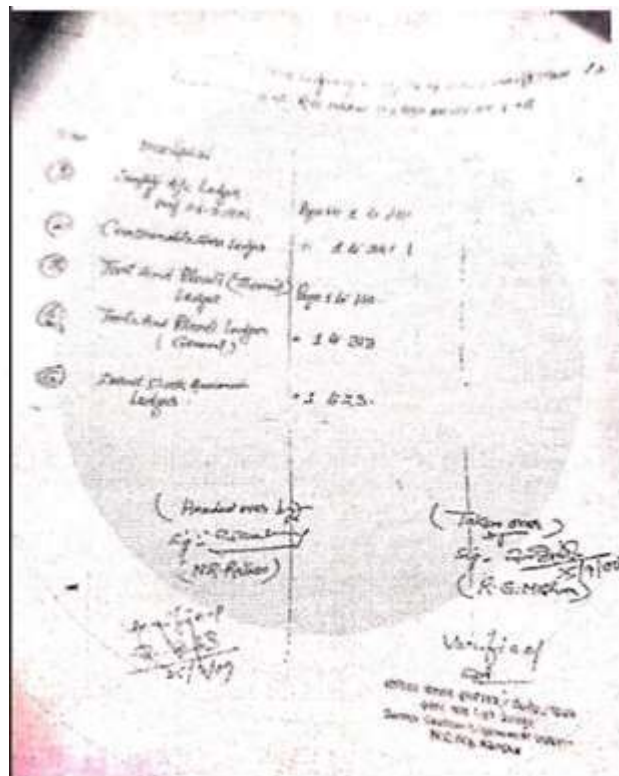
Director Estt. (W and D&A)

Railway Board

*Shri N.R. Ratan,
Retd. Office Superintendent-II
Under Sr. Section Engineer, P. Way.I, Kanpur,
C/o The General Manager(P)
North Central Railway,
Allahabad."*

7. A reading of the aforesaid order shows that the charge against the petitioner that he failed to hand-over the storage registers under his

custody to the incumbent Shri R.G. Mishra before his retirement, stands proved. However, counsel for the respondent has produced a photocopy of a document that evidences such handing-over, which we have scanned below, to show that the next incumbent Shri R.G. Mishra had in fact taken over five ledgers from the respondent on 25.09.2008:



8. Counsel for the respondent submits that if there was any shortfall in the inventory, the next incumbent Shri R.G. Mishra would have made such endorsement. There is nothing on record to show that while awarding punishment of cut in pensionary benefits the Disciplinary Authority had also sought any recovery against the respondent.
9. Having regard to the fact that the handing-over document has been brought by the respondent; and also in the absence of any adjudication

with respect to the amounts claimed by the petitioners, as of today no recovery can be made by the petitioners from the respondent.

10. In the above view of the matter, we find no merit in the writ petition. Accordingly, the writ petition is dismissed.

CM.APPL 54192/2019(stay)

11. The application also stands dismissed in view of the order passed in the writ petition.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

JANUARY 09, 2020

pst