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LIBRARY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 350/920 of 2014

In the matter of:

¶ *Jaharlal Rakshit, aged about 62 years*

son of Late Sudhangshu Rakshit,

Ex- Office Superintendent, Pay Bill

Section, B.U.-256, Eastern Railway ,

Liluah, Howrah, residing at 38, Makhla

Ghoshpara, P.O. Makhla, P.S. -

Uttarpara, District : Hooghly, Pin

Code: 712 245.

... APPLICANT

- Versus -

1. *Union of India,*

represented by the General Manager,

Eastern Railway, 17, Netaji Subhas

Road, Fairlie Place, Kolkata-700 001.

d...

2. The Divisional Railway Manager,

Eastern Railway, office at Howrah,

District : Howrah. ৩/১৬

3. The Divisional Personnel Officer,

Eastern Railway, office at Howrah,

District : Howrah. ৩/১০

4. The Chief Works Manager, C&W

Workshop, Eastern Railway, office

at Liluah, District : Howrah. ৩/১০

... RESPONDENTS

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/920/2014

Date of order : 14.2.2020

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

JAHARLAL RAKSHIT
VS.
UNION OF INDIA & OTHERS
(E. Railway)

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mr. A. Ganguly, counsel

ORDER

Bidisha Banerjee, Judicial Member

This application was preferred to seek the following reliefs:-

"a) An order directing the Respondents to release the gratuity, commutation of pension and other benefits like promotional benefits and increments in favour of the Applicant forthwith;

b) A direction be given to the Respondents for consideration of the representation of the applicant dated 22.03.2014, calculate the gratuity with interest and commutation of pension of the Applicant on the date of superannuation and release the same forthwith;

c) Any order or orders as Your Lordships may deem fit and proper."

2. Ld. counsels were heard and records were perused.
3. We noted that this O.A.No.920 of 2014 was earlier disposed of by this Tribunal vide order dated 31.07.2015. The applicant had pleaded therein that, his gratuity and commutation of pension etc. has been held up due to pendency of a judicial proceeding not connected with discharge of his official duties and that since no departmental



proceedings were pending against him invoking Rule 9 of the Railway Service (Pension) Rules to withhold his gratuity, commutation of pension etc., was highly improper in absence of any allegation of pecuniary loss caused to the railway authorities. The respondents had submitted that in terms of Rule 10(1)(a) & (b) of Railway Service(Pension) Rules, due to pendency of a criminal case against him, provisional pension not exceeding normal pension has been granted to him and in terms of Rule 10(1)(c) entire gratuity and commutation of pension have been rightly withheld.

4. We noted that a criminal proceeding was pending and a decision of the Hon'ble High Court in WPCT.165/2013, in a case where under similar circumstances the pension and gratuity with arrears were directed to be released in view of RBE 25/2004, this Tribunal directed the respondents to consider the matter in regard to release of gratuity and commutation of pension in the light of the Railway Rules and decision of Hon'ble High Court, if nothing stood in the way to release the benefits.

5. The order was assailed before the Hon'ble High Court in WPCT. No.183/2016 alleging that this Tribunal overlooked the prayer for promotional benefits, increments and interest. Hon'ble High Court recorded as under:-

"This is an apparent mistake on the part of the Tribunal. Therefore, while accepting the findings of the Tribunal on the claim for gratuity and commutation of pension, we remand the application for hearing it afresh on the reliefs regarding promotional benefits and increments as well as interest on the delayed payments of all the arrears i.e. prayers (a) in part and (b).

The application will be heard and disposed of in accordance with law as expeditiously as possible."



6. At hearing the following transpired:-

- (i) While moving the O.A. Id. counsel for the applicant never pressed for grant of promotional benefits and increments since he would not have earned promotion while a criminal proceeding against him was pending; He was on suspension due to custody and retired while the proceedings were still pending.
- (ii) The applicant has failed to make out a case that he was deprived of promotion and payable increments. No such grounds have been put forth in the entire body of the petition.
- (iii) We further note that the respondents were authorised to withhold gratuity in terms of Rule 10 of the Pension Rules due to pendency of criminal proceedings. However, this Tribunal had permitted the gratuity to be released since the pending proceedings were not connected to his service and therefore, withholding of gratuity could not be termed as "unreasonable" or "unfair" to entitle the applicant to seek interest on delayed payment of gratuity.

Accordingly his prayers for release of interest on delayed payment of gratuity and grant of promotion or increments etc. are rejected. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

