

**Central Administrative Tribunal
Principal Bench**

**RA No.63/2019
in
OA No.2838/2017**

New Delhi, this the 17th day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri Dharam Pal Dharra
S/o Late Ram Lal,
C/o Sh. Ram Pal,
R/o Village Goela Khusrd,
Post Office, Chhawala,
Nazafgarh, New Delhi-71.

... Applicant

(By Advocate : Shri S.K. Gupta)



Delhi Jal Board through

1. Chief Executive Officer,
Varunalaya Building,
Phase-2, Jhandewalan,
Karol Bagh, Delhi-110055.

2. Member (Administration),
Delhi Jal Board,
Varunalaya Building,
Phase-2, Jhandewalan,
Krol Bagh, Delhi-110055.

... Respondents

(By Advocate : Shri Vishwendra Verma)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

This RA is filed with a prayer to review the order dated 19.09.2018, passed by this Tribunal in OA No.2838/2017. The respondents in the OA are the applicants in the RA. For the sake of convenience, the parties are referred to, as arrayed in the OA.



2. The applicant joined the service of the respondent Organization, Delhi Jal Board (DJB), by claiming the benefit of reservation. Proceedings were initiated against him, alleging that the Caste Certificate, obtained by him, is a forged one. Several proceedings ensued and, ultimately disciplinary proceedings were initiated against him by issuing a charge memo dated 10.09.1993, and that resulted in the order of punishment dated 27.06.1995. The applicant filed Writ Petition No.1204/1996, challenging the order of removal. The Writ Petition was allowed and the matter was remanded, through order dated 25.10.2005. After remand, an order was passed on 19.10.2012, dismissing the applicant from service, by invoking Rule 19 of the CCS (CCA) Rules, 1965, and dispensing with the regular departmental inquiry. The applicant filed OA No.1500/2013. The said OA was



allowed on 26.07.2016, and the order of dismissal was set aside. It was left open to the respondents to issue fresh charge sheet. Accordingly, a charge sheet was issued on 10.11.2017. An order of deemed suspension was passed against him for the period preceding the date of superannuation. In the meanwhile, the applicant attained the age of superannuation on 31.10.2012.

3. The applicant filed OA No.2838/2017, with a prayer to direct the respondents to sanction the provisional pension.

4. The respondents filed counter affidavit opposing the OA. The Tribunal took note of the CCS Rules and directed the respondents to release the provision pension. This RA is filed challenging the said order.

5. The respondents contend that Rule 69 (1)(b) is to the effect that the facility of provisional pension can be extended only when an order is passed in departmental or judicial proceedings and contrary to that provision, the Tribunal directed the release of provisional pension, even while the departmental proceedings were still pending.

6. We heard Shri S.K. Gutpa, learned counsel for applicant and Shri Vishwendra Verma, learned counsel for respondents.



7. The respondents do not point out any factual error in the order. Their contention is only about the understanding or interpretation of Rule 69 (1)(b). The Rule was, in fact, extracted in the order itself and it reads as under :-

“69. Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.”



8. Rule 69 places an obligation on the Government to release the provisional pension to an employee, who is facing disciplinary proceedings. Rule 1(b) thereof, authorises the Accounts Officer for the period commencing from the date of retirement up to the date of conclusion of the departmental or judicial proceedings. By no stretch of imagination, these provisions can be interpreted to mean that the provisional pension can be sanctioned only on conclusion of the departmental proceedings.

9. We are not inclined to review the order dated 19.09.2018.

There shall be no orders as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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