

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A./T.A. No. 1421 /1995 Decided on: 4.10.96

J.K. Anand

..... APPLICANT(S)  
(By Shri G.R.Matta Advocate)

VERSUS

U.O.I & Ors.

..... RESPONDENTS  
(By Shri Vijay Pandita Advocate)

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THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~XXXXXX~~ DR. A.VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

*S.R. Adige*  
(S.R. ADIGE)  
Member (A)

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 1421/1995

New Delhi this the <sup>14</sup> Day of <sup>October</sup> ~~September~~, 1996

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Dr. A. Venkavalli, Member (J)

Shri J.K. Anand,  
S/o Shri G.D. Anand,  
R/o 12/60 Punjabi Bagh,  
New Delhi-110 026.

Applicant

(By Advocate: Shri G.R. Matta)

Vs

1. Union of India  
Through the Secretary  
to the Govt. of India,  
Ministry of Home Affairs,  
New Delhi.
2. Government of National  
Capital Territory of Delhi  
Through the Chief Secretary  
5, Alipur Road,  
Delhi-110 054.
3. The Chief Engineer,  
Irrigation and Flood Control Deptt.,  
4th Floor, ISBT, Kashmeri Gate,  
Delhi.

Respondents

(By Advocate: Shri Vijaya Pandita)

J U D G E M E N T

Hon'ble Shri S.R. Adige, Member (A)

The applicant, who superannuated on 28.2.1995 complains about the non settlement of his final retiral benefits.

2. The respondents in their impugned order dated 31.3.1995 have stated that as a departmental enquiry is pending against the applicant, final pension, commutation of pension and DCRT is not payable under Rule 69 CCS (Pension) Rules. Only provisional pension has been paid to the applicant so far.

3. The applicant has averred that no departmental proceeding has been initiated so far against him. He has

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invited attention to Rule 9(6)(a) CCS (Pension) Rules according to which departmental proceedings shall be deemed to have been instituted <sup>inter alia</sup> on the date on which the statement of charge is issued to the government servant. He states that no such statement of charges have so far been served upon him.

4. He has also contended that after his retirement proceedings can be instituted against him only with the President's sanction but no sanction has been obtained so far.

5. It is also averred that the events to which the complaints against the applicant relate are more than four years old, and departmental proceedings, if any, out of whose complaints are barred under Rule 9(2)(b)(ii) CCS (Pension) Rules.

6. The respondents in their reply have not denied any of these contentions. All that they say in their reply is, that these contentions are not maintainable, being premature, but why they are premature, has not been explained.

7. The respondents have not shown us any material to enable us to conclude that chargesheet has been issued to the applicant. They have also not shown us any material to establish that President's sanction has been obtained to institute a DE against the applicant in accordance with Rules 9(1) CCS (Pension) Rules, and admittedly DE was not instituted against the applicant before he superannuated on 28.2.1995.

8. Rule 9 makes it clear that the President alone is to withhold or withdraw a pension if in a departmental proceeding

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the pensioner is found guilty of grave misconduct or negligence. Sub-rule b(ii) to Rule 9(2) of those Rules provides that the departmental proceeding if not instituted while the Govt. servant was in service whether before his retirement or during his re-employment shall not be in respect of any event which took place more than four years before such institution.

The applicant in para 4.5 in his OA has stated that the events in question relate to the period 1983-84 to 1986-87 which are much beyond the four year period referred to in Rule 9(2)(b)(ii) above, and this fact has also not been denied by the respondents in their reply.

9. Under the circumstances the non-finalisation of the applicant's retiral benefits at this point of time cannot be legally sustained.

10. The OA therefore succeeds and is allowed. The respondents are directed to finalise ~~the~~ and release the applicant's retiral benefits as admissible to him in accordance with the rules and instructions on the subject within <sup>two</sup> ~~one~~ months from the date of receipt of a copy of this judgment. No costs.

*A. Veda Valli*  
( DR. A. VEDAVALLI )  
MEMBER (J)

*S. R. Adige*  
( S. R. ADIGE )  
MEMBER (A).

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