

Central Administrative Tribunal
Principal Bench

OA No.1961/2020

New Delhi, 13th day of January, 2021

Through video conferencing

Hon'ble Ms. Aradhana Johri, Member (A)

Sh. Yashwant Singh
(Aged about 62 years),
S/o late Sh. Digamber Singh,
R/o H.No. 151, Sector-6, P&T quarters,
R.K. Puram, New Delhi-110 022.
Retired from the post of Phone Mechanic, Group-D
Mahanagar Telephone Nigam Limited,
Office of the Executive Director Telephones,
K.L. Bhawan, New Delhi – 110 001. ...Applicant

(By Advocate: Shri Kunal Malik)

Versus

Mahanagar Telephone Nigam Limited,
Through its General Manager,
Office of the Executive Director Telephones,
K.L. Bhawan, New Delhi – 110 001. ...Respondent

O R D E R (ORAL)

The applicant was Phone Mechanic (PM-1829), who retired provisionally w.e.f. 30.09.2018. At that time criminal proceedings under Section 406/498A/34 were pending against him.

2. The applicant has filed this case for release of retirement benefits to him. He has cited two decisions of the Hon'ble Supreme Court in the case of **S.K. Dua vs. State of Haryana and Anr.** [2008 (3) SCC 44] dated 09.01.2008 and **Hira Lal vs. The State of Bihar** [Civil Appeal No.1677-1678 of 2020 decided on 18.02.2020].

3. The pendency of criminal proceedings is an admitted fact. Due to this he is covered under Rule 9(4) of CCS (Pension) Rules, 1972, which clearly states the following:-

“(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension is provided in Rule 69 shall be sanctioned.”

4. In the case of **S.K. Dua vs. State of Haryana and Anr.** (supra), the Hon'ble Apex Court did not give a final decision but remitted the matter to the Hon'ble High Court to consider it on merits and pass an appropriate order in accordance with law. The applicant has not filed any subsequent orders of the Hon'ble High Court in this matter, therefore, no benefit can be extended to him from this

decision which simply directs the Hon'ble High Court to consider the matter.

5. The second case, that of ***Hira Lal vs. The State of Bihar*** (supra) pertains to the Bihar Pension Rules 1950, which are different to the CCS (Pension) Rules, 1972. Since Rule 43 (b) of the Bihar Pension Rules provided that the State Government was empowered to withhold or withdraw the whole or part of the amount of pension, permanently or for a specified period, if the pensioner was found to be guilty of grave misconduct in any departmental or judicial proceeding, or to have caused pecuniary loss to Government by misconduct or negligence, during the tenure of his service. The Hon'ble Apex Court held that by executive orders the applicant had been deprived of pension whereas the rules had provided that only in the case of being found guilty could the pension be withheld. This is clearly not applicable in this case since the CCS (Pension) Rules speak of the institution or continuance of judicial or departmental proceedings. This has also been noted in the order of the respondent dated

09.09.2019 (**Annexure A-9**) by which the retirement dues have been withheld.

6. In light of the clear position of the rules which are squarely attracted in this case, the OA is without merit and is dismissed at the admission stage itself. There shall be no order as to costs.

**(Aradhana Johri)
Member (A)**

/nka/