



**Central Administrative Tribunal
Principal Bench, New Delhi**

OA/100/1527/2020

This the 4th day of December, 2020

(Through Video Conferencing)

HON'BLE MS. ARADHANA JOHRI, MEMBER (A)

Raghuvendra Singh Rana,
S/o. Late Chander Bhan Rana
R/o. E - 2411, Palam Yihar
Gurgaon, Haryana – 12217
Haryana - 124 107
Age 60 Years

...Applicant

(By Applicant : Shri Ajesh Luthra)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Sachivalaya, I.P. Estate
New Delhi - 110002

2. The Director
Directorate of Education,
GNCT of Delhi
Old Sachivalaya,
Delhi- 110052

3. The Lt. Governor
Raj Niwas,
Raj Niwas Marg, Civil Lines,
New Delhi - 110 052

...Respondents

(By Applicant : Ms. Esha Mazumdar)

ORDER (ORAL)

The applicant joined the service of the respondents on 29.06.1994 on the post of Grade II (DASS), was promoted to Grade I (DASS) and then promoted as ad hoc DANICS in 2012. He superannuated from service on 30.04.2020. He was not paid his full pensionary benefits but sanctioned provisional pension under Rule 69 of CCS (Pension) Rules, 1972 vide order dated 10.09.2020. He has challenged the same on the grounds that Rule 69 is attracted only if the applicant had been treated as covered by Rule 9 Sub Rule (4) of CCS (Pension) Rules. The conditions for treating a person as covered by Rule 9 (4) would be if departmental or judicial proceedings were ongoing or the employee was under suspension on the date of superannuation. As per the applicant, none of these conditions hold good. He has prayed for setting aside the order of 10.09.2020 and for immediate release of all retiral benefits to him. He has also filed certain Court rulings to support his case.

2. The respondents have filed counter denying the claims of the applicant. They have stated that a show cause notice was issued to him and disciplinary



proceedings are being contemplated. The matter had been placed before the Lt. Governor of Delhi who viewed the matter seriously. As per the respondents, since no vigilance clearance has been given to him he cannot be granted full pension and therefore he is only eligible for provisional pension under Rule 69 of the said rules.

3. Heard Shri Ajesh Luthra, learned counsel for applicant, Ms. Esha Mazumdar, learned counsel for respondents and perused the records.

4. At the outset it is important to peruse Rule 9(4) of CCS (Pension) Rules, which reads as follows :-

“(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 as provided in ²[[Rule 69](#)] shall be sanctioned.”

5. It has further been clarified in Rule 9(6) that the date of issuance of statement of charges is when the departmental proceedings are deemed to be instituted.

This rule reads as follows :-

“(6) For the purpose of this rule, -

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the



Government servant has been placed under suspension from an earlier date, on such date;"

6. In the present case it is not disputed that the statement of charges has not yet been issued.

7. The applicant has cited the case of **Coal India Limited Vs. Ananta Saha** (2011) 5 SCC 142, wherein the Apex Court has observed the following :-

" 27. There can be no quarrel with the settled legal proposition that the disciplinary proceedings commence only when a charge-sheet is issued to the delinquent employee. (Vide UOI Vs. K. V. Janaki Raman and UCO Bank vs. Rajinder Lal Capoor)"

8. The same view has been taken by a Coordinate Bench of this Tribunal in OA No. 200/01023/2018 Jabalpur Bench dated 01.08.2019 in which the Bench had relied on certain other rulings and held that when no charge sheet was issued at the time of superannuation, then non grant of vigilance clearance cannot be a bar to payment of pensionary benefits.

9. It is an admitted fact that no charge sheet had been issued till the date of superannuation. In fact no charge sheet has been issued till date. Therefore it clearly emerges that no disciplinary proceedings have been initiated and the applicant cannot be treated as an



employee under Rule 9 (4) and is entitled to full pensionary benefits.

10. OA is allowed. The respondents are directed to release the pensionary benefits that are due to the applicant within a period of six weeks from the date of receipt of a certified copy of this order. It is clarified that no opinion is expressed on the charges or on the rights of the respondents for initiation or otherwise of any disciplinary proceedings. No order as to costs.

(Aradhana Johri)
Member(A)

/Mbt/