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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2026/2004

This the 5th day of August, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

Wahid Ahmed Panwar
Retired T.G.T. (English),
House No.1312, Gali No.42,
Jafraabad, Delhi-110053.

... Applicant

(By Shri S.P.Chadha, Advocate)

versus

1. Govt. of N.C.T. of Delhi through
Chief Secretary,
Players' Building, I.P.Estate,
New Delhi.
2. Director of Education,
Govt. of NCT of Delhi,
Players' Building, I.P.Estate,
New Delhi.
3. Deputy Director (Education),
B-Block, North-East District,
Yamuna Vihar, Delhi-110053.
4. Vigilance Officer,
C/O Directorate of Education,
Govt. of N.C.T. of Delhi,
"Sachivalaya", Players' Building,
I.P.Estate, New Delhi.

... Respondents

(By Shri Vijay Pandita, Advocate, Advocate)

ORDER (ORAL)

Applicant is aggrieved that respondents have not released his pension and pensionary benefits, though he retired as T.G.T. on 30.6.2003, on the pretext that applicant had submitted false LTC bills for the block years 1994-97. Applicant has claimed pension and all other pensionary benefits with interest @ 18% w.e.f. 1.7.2003 onwards stating that delay in payment of these benefits is



totally attributable to respondents' deliberate inaction. Applicant has also sought for an exemplary cost to be awarded favouring applicant.

2. The learned counsel of applicant stated that applicant had drawn 80% advance of Rs.6240/- towards LTC for the block of years 1994-97 amounting to Rs.7800/- for self and wife, and on completion of journey performed between 17.5.1998 and 7.6.1998 he submitted his adjustment bill for Rs.1560/- duly supported by all documents. He further submitted that two preliminary enquiries by Principal, GBSSS Jafrabad had cleared applicant of the allegations in regard to submission of false LTC claim. The learned counsel also contended that no disciplinary proceedings had been initiated against applicant within four years of the date of happening, i.e., allegation of submitting false LTC claims, as applicant has retired from service. No disciplinary proceedings can now be initiated against applicant under CCS (CCA) Rules, 1965. As such, he is entitled to all his pensionary benefits and delay in release of his pension and pensionary benefits, in these circumstances, is illegal and respondents are liable to pay to him consequential arrears and interest along with an exemplary cost for ignoring his legal dues.

3. On the other hand, the learned counsel of respondents stated that applicant's provisional pension was released w.e.f. July, 2003 to November, 2004 and an amount of Rs.119576/- was paid to applicant on 13.12.2004. CGEGIS amount of Rs.4204/- and GPF final payment of Rs.308003/- was also paid to him in July, 2003. Thereafter a board of enquiry had been constituted against applicant vide letter dated 13.12.2004 and a show cause notice had been issued to him on 13.12.2004 and served on 24.12.2004. The learned counsel stated that benefits other than those paid to applicant would be immediately cleared as soon as clearance is received from the vigilance department against applicant.

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4. In rejoinder, the learned counsel of applicant stated that apart from provisional pension, GPF and CGEGIS, applicant has not been paid gratuity, leave encashment etc., despite the fact that applicant has been cleared by two independent preliminary enquiries and no disciplinary proceedings under the CCS (CCA) Rules, 1965 have been initiated against applicant with the sanction of the President and within four years of the date of alleged happening in 1998.

5. I have considered the respective contentions of the parties and also perused the material on record.

6. Admittedly, apart from GPF, CGEGIS dues and provisional pension, applicant has not been paid other dues such as leave encashment, gratuity and final pension. Again, admittedly, it is alleged that applicant had submitted false claims of LTC for the block of years 1994-97 amounting to Rs.7800/- for journeys performed between 17.5.1998 and 7.6.1998. Applicant retired on superannuation on 30.6.2003. It has not been denied on behalf of respondents that two preliminary enquiries had cleared applicant from the allegation of submission of false LTC claim for the event taking place between 17.5.1998 and 7.6.1998. Respondents have only stated that a board of enquiry has been constituted on 13.12.2004 (Annexure R-1) and a show cause notice has been issued to applicant dated 13.12.2004 (Annexure R-2) and served on applicant on 24.12.2004. Annexure R-1 dated 13.12.2004 reveals that a board of enquiry has been constituted to investigate under rule 14 of the CCS (CCA) Rules, 1965. Annexure R-2 dated 13.12.2004 alleges that on verification, LTC claims of applicant for the block of years 1994-97 in respect of himself and other members of his family for visiting Trivandrum were found to be fake and not genuine. Applicant was asked to show cause why disciplinary action under CCS (CCA) Rules be not initiated against him. Applicant submitted his reply to the show cause notice vide Annexure R-3 dated 4.1.2005 denying the allegation and stating that his pensionary benefits have not been paid to him and that he had filed a case in the

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Central Administrative Tribunal. Annexures R-1 and R-2 do not constitute initiation of disciplinary proceedings against applicant. Respondents have yet to take a decision on the basis of applicant's reply to the show cause notice dated 13.12.2004 whether disciplinary proceedings would be initiated against applicant or not. Obviously, though the alleged event of false LTC claim for the block of years 1994-97 took place in 1998, no disciplinary proceedings have been initiated against applicant under the CCS (CCA) Rules, 1965 within four years of the event. Rule 9(2)(b)(ii) of the CCS (Pension) Rules, 1972 provides as follows:

“(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

(i) xxx xxx


(ii) shall not be in respect of any event which took place more than four years before such institution, and”

This rule implies that in the case of a government servant, who has retired, departmental proceedings can be initiated only with the sanction of the President but such proceedings cannot be initiated if they are in respect of an event which took place more than four years before initiation of departmental proceedings. Applicant in the present case having retired on 30.6.2003 and the related event having allegedly taken place in 1998, a period of more than four years has elapsed, yet, no departmental proceedings have been initiated by the competent authority in terms of the aforesaid rule. Annexures R-1 and R-2 do not constitute initiation of disciplinary proceedings against applicant within the four corners of the said rule, a period of four years from the event having expired and the competent authority having not instituted any departmental proceedings against applicant within the stipulated period.

7. In this light, while applicant is held entitled to full pension and pensionary benefits w.e.f. 1.7.2003, respondents have arbitrarily withheld grant of full pension and pensionary benefits from the due date against the rules and

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instructions of the government. Accordingly, the OA is allowed directing respondents to sanction full pension to applicant and pay arrears of pension and all other pensionary benefits due to applicant w.e.f. 1.7.2003. Applicant is also held entitled to receiving an interest on arrears at the rate of 9% w.e.f. 1.7.2003 till the date of payment. Respondents are further directed to pass appropriate orders in compliance of the above directions and effect requisite payment expeditiously and preferably within a period of three months from the date of communication of these orders. In addition, respondents shall also pay to applicant a cost of Rs.5000/- (Rupees five thousand).


(V. K. Majotra)
Vice-Chairman (A) 5.8.05

/as/