

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No. 1110/2001

MONDAY, THIS THE 3RD DAY OF JUNE, 2002

HON'BLE MR. S. DAYAL .. MEMBER (A)

Sohan Lal Vaish,  
S/o Late Shrinath Vaish,  
R/o 140/142, Buxi Khurd,  
Daraganj, Allahabad.

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Applicant

(By Advocate Shri D.B. Yadav)

Versus

1. Union of India, through  
its Secretary,  
Ministry of Defence,  
New Delhi.
2. Officer-in-Charge, Records,  
A.O.C. Record Office, Trimulgherry,  
Secunderabad - 500 015.
3. Commandant Ordnance Department,  
Fort, Allahabad.
4. Commandant, C.O.D. Chheoki,  
Allahabad.
5. Chief Controller of Defence Accounts,  
(Pensions), Drupadighat,  
Allahabad.

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Respondents

(By Advocate Shri P.D. Tripathi)

ORDER - (ORAL)

This application has been filed for setting aside the memorandum of charge dated 10.7.2001 and order dated 9.8.2001. A direction has also been sought to the respondents to pay full provisional Pension to the applicant under Rule 69 of CCS (Pension) Rules, 1972.

2. The case of the applicant is that he was posted in documentation section of C.O.D., Chheoki, Allahabad, in October, 1983., and remained in that section till March, 1997

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as Upper Division Clerk. The date of superannuation of the applicant is 31.7.2001 and on 23.7.2001, a memo of charge dated 10.7.2001 was received by him. The allegation against the applicant was that while functioning as Documentation and leave Clerk of Industrial personnel of C.O.D. Chheoki, Allahabad, the applicant recorded the date of birth of one Shri Balwant, Mazdoor, on his re-employment as 9.3.1942 instead of 9.3.1934. This led to the continuation of Shri Balwant for over 5 years in the department. The applicant has therefore been charged with negligence of duty. The applicant claims to have submitted his reply to the charge sheet and has also asked for some documents which the applicant claims have not been supplied to him so far. The applicant has claimed relief in this application on account of inordinate delay in issuance of the memorandum of charges.

3. The arguments of Shri S. Lal, brief holder of Shri P.B. Yadav, learned counsel for the applicant and Shri P.D. Tripathi, learned counsel for respondents have been heard.

4. The learned counsel for the applicant has made 2 submissions before me. The first of these is that he was not responsible for wrong entry regarding the date of birth upon Shri Balwant on account of the fact that the entry was made by him on the basis of daily order Part-II No.33, dated 23.1.1984.

5. Since, the charge sheet has already been issued and the applicant has furnished his defence to the effect as above, it lies within the purview of the Disciplinary



Authority to take a view in the matter. The Tribunal cannot go into the question of the accountability or otherwise of the applicant at an interlocutory stage of departmental proceedings.

6. The second submission made by the learned counsel for the applicant is that their Lordships of Hon'ble Supreme Court in STATE OF M.P. Vs. BANI SINGH & ANOTHER - ATR 1990 (1) SC 581, have laid down that where a charge sheet was issued on 22.4.1987 in respect of an incident of 1975-76 and no satisfactory explanation of delay in issuing the charge memo is given, it would be unfair to permit the departmental inquiry to be proceeded with. The ratio of the said judgment cannot be applied to the case before us because in the case before us, the error in recording the entry regarding the date of birth of one Shri Balwant was discovered only in the year 1999 and therefore a Court of inquiry by way of preliminary inquiry was held, leading to the issuance of charge sheet. Therefore, although the entry of date of birth related to the year 1984, the issuance of memo of charges in 2001 has been sufficiently explained.

7. The applicant has claimed that he has not been paid provisional pension as per provisions of Rule 69 of CCS (Pension) Rules, 1972. The authorities are bound to pay the provisional pension after superannuation of an official against whom departmental proceedings may be pending.

8. The respondents have claimed that the applicant has not submitted his pension papers for grant of provisional pension till the date of filing of the sworn counter affidavit.

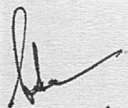
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reply on 16.1.2002. The learned counsel for the applicant claims that the pension papers had been submitted in November, 2001, itself. This requires to be ascertained by the respondents. The applicant was entitled to provisional pension after his retirement in July, 2001, and is still <sup>✓</sup> waiting for payment of provisional pension.

9. The respondents shall ensure that the provisional pension starts getting paid to the applicant within two months from the date of receipt of a copy of this order along with an interest of 8% on arrears from December, 2001, onwards. The applicant is not entitled to other reliefs.

10. There shall be no order as to costs.

  
MEMBER (A)

psp.