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CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH
ALLAHABAD.

DATED : ALIAHABAD THIS ..6th...DAY OF ..November 1995.

Original Application No. 1303 of 1993

CORAM :- Hon. Mr. T. L. Verma, J.M.

Shri Nathan SahaiSrivastava, son of
late Sri Ram Chandra Lal, resident of 47,
Avas Evam Vikas Colony, Betia Hata, North,
Gorakhpur City, Gorakhpur.Applicant..

Versus

1. Chairman, Railway Board,
Ex.Officio Secretary, Rail Bhawan,
New Delhi.
2. Union of India, representing the
administration of North Eastern Railway,
through the General Manager, Norther Eastern
Railway, Gorakhpur.
.....Respondents.

O R D E R

(By Hon'ble Mr. T. L. Verma, JM)

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This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed for
issuing a direction to the respondents to make payment
of D.C.R.G. and other dues of the applicant with
interest @ 24% per annum with effect from 1.8.1993,
till the date of payment.

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2. The applicant retired from Railway Service on 31.7.1993 as Assistant Personnel Officer. It is stated that after his superannuation a disciplinary proceeding was initiated against him which is pending. The applicant filed O.A.No.51 of 1987 for issuing a direction to the respondents to pay his death cum-retirement gratuity and other retiring benefits. The said O.A. was dismissed by order dated 21.3.1988. He thereafter filed O.A.No.890 of 1988 for quashing the disciplinary proceeding initiated against him and for issuing a direction to the respondents to release the DCRG with held by the respondents because of the pendency of the disciplinary proceeding. The aforesaid O.A. was dismissed with a direction to the respondents to finalise the disciplinary proceeding within a period of 6 months from the date of receipt of the order and then take action to release the DCRG according to Rules. This order was passed on 11.1.1989. It appears that the disciplinary proceeding initiated against the applicant has not been finally disposed of hence this application for the relief mentioned above.

JK

3. The respondents have contested the claim of the applicant. In the written reply, filed by the respondents, it has been stated that the disciplinary proceeding has already been concluded and inquiry report has been sent for further action in the matter. The further case of the respondents is that during the pendency of the disciplinary proceeding, a sum of Rs. 21,925/- out of the DCRG admissible, has already been released by the Railway Administration in favour of the applicant by Cheque No.18303/D-1/15619 dt.10.1.94.


4. I have heard the learned counsels for the parties and perused the record. Since the propriety or otherwise of initiating disciplinary proceeding against the applicant has already been adjudicated upon and the prayer of the applicant for release of the D.C.R.G. and other retiral benefits has been rejected by a bench of this Tribunal in O.A.No.51 of 1987, the issue cannot re-opened by filing a subsequent application.

5. The respondents do appear to have failed to dispose of the disciplinary proceeding, within the stipulated period of six months from the date of service of the copy of the order as directed in O.A.No. 890 of 1988. The failure on the part of the respondents to comply with the above direction, however, does not give to the applicant fresh cause of action for filing an application for release of the DCRG which has been with-held because of the pendency of the disciplinary proceeding against him. The applicant could have filed an application either under Rule 24 of the Administrative Tribunals 1985 Rules or an appropriate application for taking action for breach of the directions given in O.A.No. 890 of 1988.

6. From the written reply filed on behalf of the respondents, it is clear that payment of Rs.22,925/- has already been made and only 2155/- towards the balance of the DCRG payments to be paid. This amount has been with-held because of the pendency of the disciplinary proceeding. It has already been noticed above that the prayer for release of the D.C.R.G. has already been rejected in an earlier O.A. on account

of pendency of the disciplinary proceeding.
Disciplinary proceeding, admittedly is still pending
hence the reason for which the prayer of the applicant
was rejected still subsists. The matter, therefore,
cannot be reopened.

7. For the reasons stated above, I find no
merit in this application and the same is dismissed.
The parties will bear their own costs.


Member-J.

VKP/-