

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 24th day of July, 1997

Original Application No. 977 of 1993

District : Varanasi

CORAM :-

Hon'ble Mr. S. Das Gupta, A.M.

Abdul Hassan Son of Abdul Hamid
R/o Quarter No. 1319-B, Manasnagar,
Mughalsarai, Varanasi.

(By Shri Vinay Kumar Srivastava, Advocate)

..... .Applicant

Versus

1. Union of India through
its General Manager, Eastern Railway,
Netaji Subhas Road, Calcutta.
2. Chief Engineer (S&C), Survey and Construction
Eastern Railway, Calcutta.
3. Deputy Chief Engineer, Eastern Railway,
Mughalsarai, Varanasi.

(By Shri A. K. Gaur, Advocate)

..... . Respondents

O R D E R (Oral)

Hon'ble Mr. S. Das Gupta, A.M.

Through this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing of the order dated 13-9-1992 by which the applicant was informed that it would not be possible to clear his dues including commutation of pension, gratuity etc. until and unless the contractor was persuaded by him to clear the material dues. He has also sought a direction to the respondents to make payment of the post retirement benefits of full pension, commutation of pension, gratuity etc. as admissible under the rule with penal rate of interest. A further direction sought is to make payment of pension from month to month.

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2. It appears from the averments in the OA that the applicant was working as IOW in the Eastern Railway, Construction Division, at Mughalsarai. Certain contract for construction of staff quarters was given to one Shri Raghunath Singh Takia and the applicant had been posted as IOW Grade III(Construction). During the course of his employment as such the applicant had issued certain materials to the contractor. After he had retired from the service w.e.f. 31-1-1992, the applicant was told that there was excess material issued to the contractor and he should contact the contractor to return the excess material. Later on, order was passed by which he was told that his terminal benefits have been withheld on this count.

3. In the counter affidavit, the respondents have given details as to how the excess materials were issued to the contractors and in what manner the applicant was responsible for the same. The applicant has filed a rejoinder affidavit, in which he has tried to explain in what manner he is not responsible for excess issue of materials.

4. I have heard learned counsel for the both the parties and also perused the pleadings on record carefully.

5. There is no doubt that while the applicant was in service no charge was framed against him for misconduct or dereliction of duties. It is only after he had retired from service that he was told about his responsibility for issue of excess materials to the contractor. Even after his retirement, no formal charge sheet was issued and there is nothing on record to indicate that a formal inquiry was

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held in order to ascertain the responsibility of the applicant in issuance of excess materials. In terms of the Pension Rules, the applicant, who has been transferred to pension establishment, cannot be proceeded against under the normal departmental rules. In order to proceed against the petitioner, it is necessary to obtain the Presidential sanction under Rule 9 of CCS(Pension) Rules. There is nothing to indicate that any such order was obtained and the applicant was proceeded against under such an order. In fact, there is nothing on record to indicate that the applicant was actually guilty of any excess issuance of materials to the contractor.

6. The withholding of the pensionary benefits of the applicant was thus wholly arbitrary and illegal. I, therefore, dispose of this application with the direction to the respondents to pay to the applicant the entire retiral benefits due to him with interest @ 15@ per annum for the period beginning three months after the date of retirement till the actual payment thereof. This direction be complied with within a period of four months from the date of communication of this order, failing which the rate of interest leviable will be 18% from the date of completion of four months from the date of communication of this order.

7. The application is accordingly allowed on the above terms. The parties shall bear their own costs.

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Member (A)

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