

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 15th day of May 1995.

Original Application no. 1834 of 1994.

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Chhedi Lal Chauhan, S/o Late Shri K.L. Chauhan,
R/o 773/177/2, Rajroop pur, Distt. Allahabad.

... Applicant.

C/A Shri O.P. Gupta,

Versus

1. Senior Divisional Account Officer in the Office of D.R.M., N. Rly, Allahabad.
2. The Financial Advisor and Chief Accounts Officer, N. Rly., Baroda House, New Delhi.
3. Union of India through General Manager, N. Rly, Baroda House, New Delhi.

... Respondents.

C/R Shri A.K. Gaur.

ORDER

Hon'ble Mr. S. Dayal, Member-A

This is an application under section 19 of the Administrative Tribunal Act, 1985, seeking a direction to the respondents to finalise the disciplinary proceedings against the applicant prior to his retirement from railway service failing which quashing of disciplinary proceedings and payment of retirement

Cont..2/-

benefits like pension, Commutation of pension, leave encashment, Provident fund etc with 18% interest.

2. The grounds on which relief has been claimed are several. The first is intimation from the Railway administration that the applicant would be retiring on 31.01.95. The second is that the railway rules required that Railway administration should take action 8 months in advance so that retirement benefits are available to the employees immediately after retirement. The third is that enquiry proceedings are pending before the applicant since 1988 and more than six years have elapsed till the filing of this application on 28.11.94 which is against the modal time schedule for completion of enquiries in 150 days. The last is that the enquiry is made to drag due to the fault of the respondents who have appointed and changed enquiry officers and appointed reluctant ~~pro~~ presenting officers.

3. The respondents in their reply have stated that the relief claimed is not admissible and that the application is premature. They have stated that the proceedings were kept in abeyance on the request of S.P, C.B.I. under the provision of the Vigilance Manual and the S.P. had recommended prosecution on the basis of enquiry. They have stated that the application is barred by limitation. They have stated that the applicant has already retired. They have said that the applicant had ~~involvement in fraud~~ Cont...3/-

of Rs. 2.60 lakhs in payment of salary to staff of Loco Foremen by his failure to adopt prescribed ~~checks~~ changes while auditing the payment. They have stated that the applicant had been paid all other dues except gratuity, leave encashment and ~~comm~~ituation of pension. They have denied that any time limit has been prescribed by the Railway Board for completion of enquiry or that the Presenting officer was delaying the enquiry. They have stated that a new enquiry officer has been appointed on 19.08.94 due to transfer of the earlier enquiry officer. It is mentioned that the enquiry would be completed soon if the applicant cooperates.

4. Shri O.P. Gupta, learned counsel for the applicant has not filed any rejoinder to the reply. He was heard and reiterated the facts and arguments contained in the application. Shri A.K. Gaur, learned counsel for the respondents has mentioned the facts and arguments contained in the counter reply.

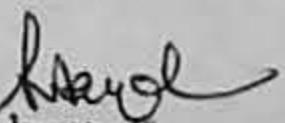
5. The first issue raised by the respondents is that of limitation. This argument as presented in paragraph 6 of the reply is specious in view of facts of this case. The cause of action continues till the departmental enquiry against the applicant is completed. A government servant has a right to have the departmental proceedings conducted against him to be completed expeditiously as he stands to lose

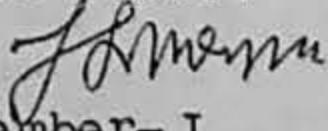
on several counts if the enquiry is not completed with due despatch. If an enquiry is delayed by the employers, it can be placed by an applicant before the Tribunal as it is a service matter and makes a government employee liable to be visited by harmful consequences.

6. The respondents have also raised the issue that the application is premature. The application is premature only if we consider the relief of conferment of retirement benefits at the time it was preferred. It is not premature if we consider the alleged delay in departmental enquiry due to the action of respondents. Even the question of payment of retirement benefits is not premature any more.

7. However, the application has become infructuous because the direction to complete the departmental enquiry before the retirement of the applicant cannot be given. As far as the payment of retirement benefits is concerned, it is not very clear as to what was due and what was denied. The applicant can represent on this issue to the respondents and bring the matter before us if he is aggrieved after giving six months time to the respondents for this purpose. This application is dismissed as having become infructuous.

8. There shall be no order as to costs.


Member-A


Member-J