

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 589 of 1996.

Date of order: 28.2.97.

Present : Hon 'ble Dr. B.C.Sarma, Member (A)

RABINDRA NATH SAHA

VS.

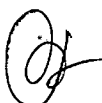
UNION OF INDIA & ORS.

For applicant : Mr. S.P.Jana, Counsel.
Mr. T.N.Ghosh, Counsel.

For respondents : Mr. P.K.Arora, Counsel.

The dispute raised in this application is about the non-payment of final pension due to the applicant and also the amount of DCRG, commutation value of pension and security money of Rs.500/- to which he is entitled after retirement. The applicant retired on attaining the age of superannuation on 31.7.93 as a Commercial Supervisor under the railway respondents. It is his averment that on the date of retirement there was neither any disciplinary proceeding nor any judicial proceeding pending against him. The respondents railway had given him only ~~provisional pension after his retirement~~ provisional pension after his retirement. Being aggrieved, the instant application has been filed with the prayer mentioned hereinbefore.

2. The case has been opposed by the respondents by filing a reply. It has been mentioned therein that there was two cases pending before his retirement. The first case was regarding forwarding an appeal of the party for waiver of wharfage charges accrued against the consignment booked under PWB No.166684 dated 8.10.91, but as per office record it was detected that the party's appeal for the same consignment was forwarded earlier on 25.3.91 and it was regretted by the office. The applicant was also placed under suspension from 3.4.92 to 24.5.92. However, the case has resulted in exoneration of the applicant and this was duly conveyed to him by the authority concerned. The case was closed as per the averment of the applicant, on mercy ground and the suspension period was regularized treating the period as spent on duty. The second




case was for alleged theft of a sum of Rs.48,975/- which was also pending after retirement. The case was detected on 1.3.91, which is before the date of retirement of the applicant. As per the averment made by the respondents there was a fact-finding inquiry report which was received after after the retirement of the applicant. A letter dated (BBW Annexure-A) 29.7.93/ was issued to the applicant ~~informing him that DA case was~~ DcRG and wherein it was stated that/ Comuted value of pension was retained due to DA case pending, but therein it was omitted to mention that another case for theft of cash was also pending and it was under process.

3. During hearing, my attention has been invited to Rule 315 of the Manual of Raiwlay Pension Rules, 1950, which governs the case of the applicant since he has retired before the date of promulgation of the new Pension Rules of 1993. Sub-rule (b) of Rule 315 runs as follows:

"Such departmental proceeding, if not instituted while the Railway servant was in service, whether before his retirement or during his re-employment -

- (i) shall not be instituted save with the sanction of the President.
- (ii) shall not be in respect of any event which took place more than 4 years before such institution; and
- (iii) shall be conducted by such authority and in such places as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Railway servant during h is service;

It, therefore, appears that the conditions to be fulfilled for institution of DA proceeding against the retired railway employee are mentioned in sub-rule (b) of Rule 315 of the Manual of Pension, 1950, which are conjunctive and ^{and} disjunctive. Although, Mr. P.K.Arora, ld. counsel for the respondents, argues tht the President has the right to initiate a proceeding, but it appears from the said sub-rule that even the President will have to follow the conditions mentioned in the said sub-rule, namely 315(b)(ii). From the reply filed by the respondents it is not at all clear to me whether any charge-memo was issued or whether the matter has at all been referred to the President for taking action as per rule 315.

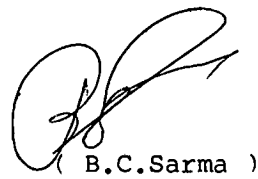


3.

4. This being the position, the matter is adjourned to enable Mr.P.K. Arora, ld.counsel for the respondents, to calrify the above position. He is also directed to produce the relevant records containing therein what specific action was taken in the matter.

4. The matter is adjourned to 14.3.97 as part-heard.

6. Plain copy of this order may be handed over to both the counsel.



(B.C.Sarma)

MEMBER (A)