

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. No.341 of 1999
O.A. No.673 of 1996
(O.A. 1240 of 1996)

Date of order: 7.7.1999

Present: Hon'ble Mr. D. Purkayastha, Judicial Member

UNION OF INDIA & ORS. (E. RLY.)

VS

DHIRENDRA NATH BALA

For the Applicant(s): Mr. P. K. Arora, counsel

For the Respondents : Mr. T.K. Biswas, counsel

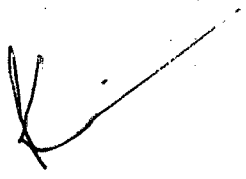
O R D E R

This miscellaneous application has been filed by the Eastern Railway, who are the original respondents in the OA 673/96 and OA 1240/96, for staying or keeping in abeyance the order dated 12.2.1999 passed in OAs 673/96 & 1240/96. It may be mentioned here that OA 1240/96 relates to voluntary retirement and OA 673/96 relates to the matter of transfer and posting. It is found that OA 1240/96 and OA 673/96 has been mentioned in the top of the order dated 12.2.1999, though actually OA 1240/96 has been disposed of by a speaking and reasoned order on 12.2.1999 and no order has been passed in respect of OA 673/96 on merits. Thereby OA 673/96 is still pending for adjudication.

2. Mr. Arora, learned advocate submits that the applicant after getting the order dated 12.2.1999 in his favour from this Tribunal ^{of remission in service} ~~who~~ ^{after} has set aside the order of acceptance of the voluntary retirement, has been drawing pension from the State Bank of India, Bongaon Branch, Dist. 24 Parganas (North) till date on the basis of sanction of provisional pension in violation of the said order though he has no authority to receive the pension from the said Bank after the order dated 12.2.1999, because his retirement had no effect from 12.2.1999. Thereby the impugned order dated 12.2.1999 should be stayed. However, Mr. Biswas, learned advocate appears for the Opposite Party and submits that after getting the order dated 12.2.1999 the

applicant reported to the authority for joining in connection with the order of reinstatement as ordered by the Tribunal, but the respondents for the ^{reason} best ~~reasons~~ known to them did not pass any reinstatement order consequent to the order dated 12.2.1999 in OA 1240/96. Since no order of reinstatement has yet been issued by the authority, he has drawn the provisional pension from the Bank in accordance with the rule of provisional pension sanctioned by the authority in pursuance of the interim order dated 9.7.98 passed in OA 1240/96.

3. After considering the facts and circumstances of the case, I find that the interim order was passed on 9.7.98 in OA 1240/96 directing the respondents to issue order for provisional pension till the disposal of the case, since it ~~was~~ a case of voluntary retirement which was accepted by the respondents after withdrawal of the said notice of voluntary retirement filed by the applicant. Thereafter the case was disposed of on 12.2.1999. So, the earlier interim order has been merged with the order dated 12.2.1999 and that order has become infructuous, in view of the fact that the respondents were directed to reinstate the applicant forthwith. The expression of the word 'forthwith' in the order means to give immediate effect of the order. It is not understood why the respondents did not issue any order of reinstatement in pursuance of the order passed by this Tribunal on 12.2.1999 till date. Mr. Arora submits that they did not pass the order for reinstatement as per the order of the Tribunal since they have filed a review application which is pending. It is seen that in the said review application no stay order has been granted. Mere filing an application for review does not mean that the order under review has been stayed. The expression of the word 'forthwith' has some special indication and the respondents are bound to comply with the order; unless such said order is stayed by the Court/Tribunal or by appellate authority. It is found that the review application has been filed on 22.6.99



after lapse of four months from the date of passing the order on 12.2.1999 in OA 1240/96. In view of the aforesaid circumstances I do not find any merit in the miscellaneous application bearing No.341/99 since I find that the official respondents are in laches in the matter of compliance of the order and the official respondents are responsible for ^{non} compliance of the lawful order because it is an obligation and duty on the part of the respondents to comply the order and to intimate the Bank Manager to stop the payment of provisional pension after passing the order of reinstatement, as ordered by this Tribunal. In the instant case they did not do so. Thereby the respondents cannot be blamed the applicant for drawing the pension since no instruction has been issued to the Bank Manager after compliance of the order.

4. In view of the aforesaid circumstances I find that the application is devoid of merit and is liable to be dismissed. Accordingly, it is dismissed awarding cost of Rs.200/- to be paid by the official respondents to the applicant of the OA 1240/1996.

[Signature]
(D. Purkayastha)

MEMBER (J)