

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. : 230/1997

Date of Order : 9.9.1999

Mr. Chandra Prakash Mittal S/o Shri Lala Sadhu Ram, aged about 64 years, resident of Mahaveer Colony, in front of Mahaveer Rakies, Abu Road, Rajasthan, Last employed on the post of Mail Driver (Abu Road).

..Applicant.

Versus

1. The Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
3. Divisional Personnal Officer, Western Railway, Ajmer Division, Ajmer.

..Respondents.

Mr. J.K. Kaushik, counsel for the applicant.

Mr. S.S. Vyas, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. A.K. MISRA :

The applicant has filed this OA with the prayer that the respondents be directed to grant him pensionary benefits i.e. final pension, commutation of pension, DCRG, Insurance, Leave Encashment LAP/HAP etc. forthwith and the amount of arrears be directed to be paid to the applicant with interest at market rate. He has further prayed that period of his suspension from 9.7.1989 to 25.01.1990 be ordered to be treated as spent on duty for all purposes and due salary be ordered to be paid.

2. Notice of the OA was given to the respondents who have filed their reply.

3. In this case, this is an admitted position that retiral benefits have not been released till now to the applicant inspite of his superannuation on 31st January, 1991. The reason as narrated by the respondents in their reply is that the applicant was facing criminal trial for offences under section 376 and 306 of the Indian Penal Code. It is alleged by the respondents that the criminal case which was registered against the applicant has not come to an end finally as the Law Department of Rajasthan Government was contemplating to file Special Leave Petition before Hon'ble the Supreme Court. The OA, therefore, is liable to be dismissed.

4. Both the learned counsels for the parties advanced their arguments on the basis of their respective pleadings. From the record it appears that the case under section 376 and 306 of Indian Penal Code was registered in the Police Station, Abu Road and the Sessions trial was initiated against the applicant in 1989. After the trial the applicant was acquitted by the learned Sessions Judge vide his order dated 5.9.1995. Against this acquittal order the State preferred an SB Criminal Leave to Appeal No. 208/1996 which was refused by Hon'ble the High Court on 19th February, 1996

(Annwxure A/3). Thereafter, the respondents are in correspondence with the Law and Judicial Department of Government of Rajasthan seeking information whether Special Leave Petition before Hon'ble the Supreme Court has been filed or not and the reply of the Government is awaited by them. But in our view the respondents can not indefinitely wait for such information and continue to withhold the retiral benefits of the applicant. There seems to be no justification with the respondents in not paying the retiral dues to the applicant. After the accused was acquitted and Criminal Special Leave Petition was refused by the High Court, the respondents should have paid to the applicant all his retiral benefits but they have not done so. Learned counsel for the respondents has also not been able to show as to under what rules the amount of encashment of earned leave and amount of Group Insurance has been withheld. Pendency of criminal case could have been ground for not finalising the pension and DCRG but not other retiral benefits.

5. After retirement the Government servant expects quick settlement of his pensionary dues. In the instant case, the payment of pensionary benefits to the applicant seems to have been unreasonably delayed by the respondents. The applicant is entitled to all his pensionary benefits, in view of his acquittal in the criminal case.

6. There is no order on record to show that the

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respondents have taken decision in respect of suspension period of the applicant i.e. from 9.7.1989 to 25.01.1990. As per rules soon after reinstatement of the applicant, order in respect of suspension period was required to be passed by the respondents which has not been passed. Therefore, the respondents are required to be directed on this count also. Vide Annexur A/l dated 19.4.1996, the respondents have granted provisional pension to the applicant which has commenced with effect from February, 1991. The final order in respect of pension has not been passed which is required to be passed now.

7. In view of the above discussion, the OA deserves to be accepted and is hereby accepted. The respondents are directed to pass order regularising the suspension period of the applicant. Final pension to the applicant be granted and the applicant be permitted to exercise his option in respect of commutation of pension as per the rules relating to commutation. The amount of DCRG, Insurance and Leave Encashment be paid to the applicant with interest at the rate of 12 per cent per annum compounded annually from the date the amount in each head became due to the applicant.

8. The respondents are directed to comply the orders within 3 months from the date of communication of the order. No order as to costs.

Gopal Singh,
(GOPAL SINGH)

MEMBER (A)

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9.9.99.
(A.K. MISRA)
MEMBER (J)