

✓

X

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH AT JODHPUR

Original Application No.107/2012

Jodhpur, this the 18<sup>th</sup> September, 2013

**CORAM**

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)  
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Baleshwar Kumar Tyagi through his LRs-

1. Smt. Usha Tyagi w/o late Baleshwar Kumar Tyagi, aged about 64 years, resident of F-31, Vallabh Garden, Main Road, Bikaner.
2. Miss Rituparna Tyagi daughter of Late Baleshwar Kumar Tyagi, aged about 32 years, resident of F-31, Vallabh Garden, Main Road, Bikaner.

.....Applicant

Mr.J.K.Mishra, counsel for applicant

Vs.

1. Union of India through the General Manager, North Western Railway, Hqrs. Jaipur Zone, Chainpura, Jagatpura, Jaipur, Rajasthan.
2. Chief Engineer, North Western Railway, Hqrs. Jaipur Zone, Chainpura, Jagatpura, Jaipur

...Respondents

Mr. Sailil Trivedi, counsel for respondents

**ORDER (ORAL)**

Per Justice K.C.Joshi, Member (J)

By way of present application, the applicant has challenged the charge sheet issued vide memo dated 29.7.1998 (Ann.A/1) and all subsequent proceedings and prayed for the following reliefs:-

X

18

- (i) That impugned disciplinary proceedings instituted vide charge sheet issued vide memo No.E/141/141/1470-Department-E (D&A) dated 29.7.1998, Annexure A/1, passed by 3<sup>rd</sup> respondent and all subsequent proceedings thereof, may be declared illegal and the same may be quashed.
- (ii) That the respondents may be directed to release forthwith all the retiral dues of the applicant including the amounts of GPF, Leave Encashment, DCRG, commutation of pension etc. along with interest at market rate till the due amounts are paid.
- (iii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

2. Necessary facts, so far as relevant for disposal of this application, are that the applicant was initially appointed to the post of APWI and was lastly promoted to the post of Assistant Engineer in the year 1984. The applicant was served a chargesheet dated 29.7.1998 and after conducting inquiry, a penalty of compulsory retirement from service was imposed upon the applicant vide order dated 3.7.2002. The applicant challenged the same before CAT-Principal Bench by filing OA No.852/2006 and the Principal Bench vide order dated 1.2.2006 disposed of the OA with following directions:-

11. Respondents are directed to complete the enquiry within a period of 3 months from the date of receipt of a copy of this order and applicant is also directed to cooperate with the enquiry. It would be open to respondents to proceed ex-parte against the applicant in case he does not cooperate with the enquiry officer or they may seek extension of time in case applicant does not cooperate or due to some other explanation. The Inquiry Officer may conduct the enquiry on day to day basis so that it is completed within the stipulated period. It goes without saying that

2

before passing the final order, respondents shall consider all the submissions made by the applicant in his representation in accordance with law.

Thereafter the applicant was deemed to have been reinstated in service and after attaining the age of superannuation retired on 31.10.2005. He was paid provisional pension, but other retiral dues were withheld. Thereafter, in compliance of the order of the CAT-Principal Bench, a fresh inquiry was conducted and the applicant was furnished a copy of the inquiry report vide letter dated 27.7.2010 against which the applicant made representation.

It is averred in the application that disciplinary proceedings ought to have been treated as dropped after expiry of the period granted by this Tribunal, but the respondents are lingering on the matter and withheld amount of retiral benefits has not been released, which is causing great hardship.

3. The respondents by way of filing reply have stated that the original applicant died during pendency of this OA on 2.8.2012 and on account of his death, the disciplinary proceedings pending against him have been dropped by the disciplinary authority and consequent upon this, the competent authority vide communication dated 5.8.2013 directed for making arrangement of full pay and allowances (after adjusting subsistence allowance, if any) for the intervening period from 11.7.2002 i.e. the date of compulsory retirement to 31.10.2005 i.e. superannuation of the original applicant. It is, therefore, prayed that consequent upon

subsequent development, the main relief sought by the applicant has become infructuous and the OA is liable to be dismissed.

4. We have heard the counsel for both the parties and perused the material available on record. Counsel for the applicant contended that no retiral benefit has been paid to the applicant since long period and being wife of the deceased Government servant, she is entitled to get the amount of GPF, Leave Encashment and other retiral benefits.

5. Per contra, the counsel for the respondents contended that payment of GPF has already been paid in the year 2010 and an amount of Rs. 80,000 has been deposited in the Bank A/c of the deceased employee. Further, order dated 26.12.2012 has been passed by the General Manager (P), North Western Railway, Jaipur for releasing all the withheld retiral dues.

6. In view of above, the OA succeeds. So far as the main relief regarding quashing of disciplinary proceedings is concerned, the same have been dropped by the respondents and therefore, there is no need to declare the same as illegal or otherwise. Further, the respondents are directed to release the retiral dues to the wife of the deceased employee including amount of GPF (if not paid), Leave Encashment, DCRG, Commutation of pension etc. within a period of three months from the date of receipt of a copy of this order. It is made clear that in case any payment remains due after

expiry of three months, the respondents shall be liable to pay interest @ 9% p.a. on the amount remain unpaid after expiry of three months.

7. The OA is disposed of accordingly with no order as to costs.

*Meenakshi*  
(MEENAKSHI HOOJA)  
Administrative Member

*K.C. Joshi*  
(JUSTICE K.C. JOSHI)  
Judicial Member

R/