

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA NO. 932 OF 1997

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

Hon'ble Mr. D. Purakayastha, Member (J)

Bankim Mukherjee,
Ex-Chief Signal Inspector,
E.Rly.
6/1. Goalapara Lane,
P.O. Belgharia,
Dist. 24 Parganas.

VS

1. Union of India through the
General Manager, E. Rly.
17, Netaji Subhas Road,
Calcutta-700 001
2. Chief Personnel Officer,
E. Rly. 17, Netaji Subhas Road,
Calcutta-700 001
3. Divisional Railway Manager,
Asansol, E. Rly.
4. Sr. Div. Signal & Telecommunication
Engineer, E. Rly. Asansol
5. Sr. Div. Personnel Officer,
E. Rly. Asansol

..... Respondents.

For the petitioner : Mr. A.K.Banerjee, Counsel

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

Heard on 13.1.98 : Order on : 13.1.98

O R D E R

B.C.Sarma, A.M.:

The applicant, who is a retired Chief Signal Inspector in the Eastern Railway, has filed this petition making the following prayers :

"8. In view of what are stated in paragraph (4) above, the applicant prays for the following reliefs:

(a) Respondent authorities be directed to pay encashment value of earned leave, gratuity, pension and commuted value of pension and all retirement benefits with interest accrued thereon.


- (b) To quash the impugned charge-sheet dt. 19.11.96 (being made Annexure-A to the application).
- (c) To issue Service Certificate, Medical Identity Card, Complimentary passes to the applicant.
- (d) To reimburse the cost incurred for treatment of the wife of the applicant elsewhere.
- (e) To pass such other or further order or orders as Your Lordships may deem fit and proper. "

2. Mr. P.K.Arora, the ld. counsel for the respondents entered appearance and opposes the application. He submits that multiple prayers have been made in this case and prayer at

para 8(b) is premature.

3. We have heard the learned counsel for both the parties and perused the records. We find that basically the application has been filed against the charge memo dt. 19.11.96 which is at Annexure-A to the application and the other reliefs prayed for have got some nexus with this relief. Therefore, we are of the view that this application is not affected by the multiple reliefs. However, we may deal with the reliefs prayed for one by one.

4. For the sake of facility, we take prayer at sub-para (b) first regarding quashing the charge-memo. It appears that the applicant has made a representation to the disciplinary authority stating that he is not responsible for the work of measurement and that is why the facts in the charge-sheet are wholly incorrect. In this respect, we would like to quote the observation of the Hon'ble apex court in the case Transport Commissioner, Madras -vs- A. Radha Krishna Moorthy, 1995 SCC (L&S) 313 in which their lordships have held that correctness of the charges is not subject to judicial review prior to conclusion of the departmental enquiry and that even after the conclusion of the departmental enquiry, the scope of judicial review is restricted to charges based on no evidence.



Therefore, the prayer of the applicant to quash the charge-memo at this stage has to be rejected. The proceeding is still pending and it must be brought to a logical conclusion as per rules.

5. As regards sub-para (a) of para 8 of the application, we find that an interim order was passed by the Tribunal on 11.8.97 regarding release of provisional pension as well as arrears of provisional pension as admissible under the rules. Mr. Arora submits that this interim order has been complied with. This being the position, we are of the view that no further relief can be granted to the applicant at this stage keeping in view the fact that the departmental proceeding is pending against him. Therefore, the other prayers made in this sub-para are rejected.

6. As regards sub-para (c), Mr. Arora submits that the applicant cannot be given service certificate since a DA proceeding is pending against him. But the prayers for issue of medical identity card and also complimentary passes may be considered as per rules once the applicant approaches the railway authorities. Therefore, we dispose of these prayers with the observation that if the applicant so likes he may file separate application regarding grant of medical identity card and complimentary passes to the respondent authorities.

7. As regards sub-para (d), Mr. Arora again submits that the applicant has to submit appropriate claim regarding reimbursement of medical expenses incurred by him for treatment of his wife to the appropriate railway authorities. The applicant, if he so likes, may submit necessary claim in this regard.

8. In view of the above position, we dispose of the application with the following orders:

a) The prayers of the applicant for payment of encashment of earned leave, pension, gratuity, commuted



value of pension at this stage are rejected.


b) The prayer of the applicant for quashing the charge memo is also rejected.


However, we direct the respondents to conclude the DA proceeding instituted by the impugned charge-memo within a period of six months upto the stage of passing of the order by the disciplinary authority. We also direct the applicant to cooperate in the said proceeding and if he fails to do so, the respondents shall have the liberty to proceed against him as per rules to conclude the proceedings in time.

c) The applicant, if he so likes, may make a representation to the authorities concerned for grant of medical identity card and complimentary passes. On receipt of which the appropriate respondent shall dispose these matters within a period of one month from the date of receipt of such representation.

d) The applicant, if he so likes, may file a claim for reimbursement of medical expenses incurred by him for treatment of his wife within a period of one month and thereafter, within a period of 2 months from the date of receipt of such claim, the appropriate respondent shall dispose of such claim as per rules.

e) There will be no order as to costs.


(D. PURAKAYASTHA)
MEMBER(J)


(B.C. SARMA)
MEMBER(A)