

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A. 33 of 1997

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

Hon'ble Mr. G.S. Maingi, Administrative Member

HRISHIKESH MAJI

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. Samir Ghosh, counsel

For the respondents : Mr. B. Mukherjee, counsel

Heard on : 14.6.2000

Order on : 14.6.2000

ORDER

D. Purkayastha, J.M.

Heard ld. counsel for both sides.

2. Brief facts of this case are that, the applicant served under the respondents as Extra Departmental Branch Post Master at Dakshin Kashimnagar Branch Post Office w.e.f. 1962 and while working in that post, he was put off from duty w.e.f. 8.6.81 on the ground of misappropriation of Government money for which a police case was filed against him at Mahishadal Police Station under P.S. case No.13 dated 27.6.81 under Section 409 of Indian Penal Code. According to the applicant, he was released ^{on bail} from that case w.e.f. 14.11.81 by the S.D.J.M., Tamluk, but in the meantime, the Midnapur D.E.B. submitted chargesheet against him under Section 409 of I.P.C. to the Special Judge's Court, Tamluk under Case No.T.R.7 of 1991. It is stated by the applicant that he has been granted bail on prayer and thereafter ^{he was discharged} released from that case on 31.5.1993. Thereafter, he made several

representations to the respondent authorities requesting for his reappointment in service and payment of arrears of his salaries w.e.f. 1981 alongwith other benefits since he has been released from the criminal case, but no action was taken on his representations. In the meantime he retired from service on superannuation, but he was not granted pensionary benefits. So, he has come to this Tribunal by filing this application seeking appropriate relief.

2. Respondents have filed written reply to the O.A. It is stated by the respondents that the applicant is not entitled to arrear allowances and pensionary benefits as per rules since his service was on 'no work no pay' basis. It is also stated lodged by the respondents that the police case/against the applicant on the alleged ground of misappropriation of government money /was finally disposed of on the ground that the I.O. failed to submit report in final form within a period of 8-9 years and did not pray for permission to continue the investigation during the statutory period. In the reply respondents further states that, institution of departmental proceedings against the applicant was considered necessary, but it was not possible to secure the original documents available with the police; hence, he was allowed to continue under put-off duty. It is stated by the respondents that since the departmental proceeding against the applicant was not completed, his representations regarding his appointment and payment of arrears was not considered although he was released from criminal charges; the applicant has been deemed to be discharged from service w.e.f. 1.6.1996 as he attained the age of superannuation, therefore, he is not entitled to the pensionary benefits and other reliefs claimed in this O.A. as per the rules.

3. Ld. counsel for the applicant, Mr. Samir Ghosh submits that due to the fault on the part of the respondents, departmental proceeding/against the applicant was not completed within the prescribed period and injustice has been done to the applicant by not granting him his pensionary benefits on superannuation and other benefits

to which he is entitled as per rules on being discharged from criminal case. So, appropriate direction may be given to the respondents to grant him consequential reliefs asmissible under the rules on being released from criminal case, after setting aside the impugned order of put off from duty and the departmental proceeding against the applicant.

4. Ld. counsel, Mr. B. Mukherjee appearing on behalf of the respondents, submits that on the basis of the allegation of misappropriation of Government money, departmental proceeding was initiated against the applicant after furnishing him with a chargesheet vide Memo dated 10.2.85, but the applicant did not admit the receipt of the same till date. He further submits that the departmental proceeding could not be completed within prescribed period /since all the original documents relating to the case, were under police custody. It is further stated by Mr. Mukherjee that since the departmental proceeding against the applicant was not completed under the rules within the prescribed period and the applicant was deemed to have been discharged from service on attaining the age of superannuation, he is not entitled to pensionary benefits or arrears of salaries as claimed in this application.

5. We have considered the submissions made by the ld. counsel for both sides and have perused the records produced before us. In the written reply the respondents did not make any statement to the effect that the said chargesheet dated 10.2.85 has been furnished to the applicant. No specific averment has been made by the respondents in respect of the latest position of that chargesheet dated 10.2.85 which is stated to be issued against the applicant. It appears that the applicant was kept under put-off duty w.e.f. 1981 and he retired from service in 1996, but the departmental proceeding against him could not be completed during such a long period. Respondents could not give any explanation to our question as to why they did not

proceed with the departmental proceeding against the applicant simultaneously. It is the contention of the ld. counsel for the respondents that the documents on the basis of which the departmental proceeding could be completed, were lying under the police custody for investigation and the police could not complete their investigation even after expiry of 8-9 years, and for these reasons, the respondent authorities could not proceed with the disciplinary proceeding against the applicant within the time limit. We are of the view that the respondent authorities could have collected the aforesaid documents from the police authorities for the purpose of conducting disciplinary proceeding against the applicant independently on the basis of the chargesheet dated 10.2.85 which is stated to be issued to the applicant on the alleged ground of misappropriation of Government money, since there is such provision under the rules. As per the extant rules, departmental proceeding and criminal proceeding may be conducted against a Government employee simultaneously. So, it appears that the respondents have unnecessarily harassed the applicant by not completing the disciplinary proceeding against him within the time limit, as a result of which he was denied his legitimate claims, for which he was not responsible in any way. Thereby, we think that the applicant should be given all consequential reliefs on his being released from criminal charges in accordance with the extant rules.

6. In view of the aforesaid circumstances, we direct the respondents to give all consequential benefits to the applicant to which he is entitled as per rules on his being released from criminal charges with retrospective effect from 1981 to till the date of his superannuation i.e. on June, 1996. The impugned order of put-off from duty/issued to the applicant and the departmental proceeding initiated against him, are hereby set aside. The aforesaid benefits shall be granted to the applicant within a period of 3 months from the date of communication of