

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. 345/90

Onkar Nath Srivastava

Applicant

versus

Union of India & others

Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava)

The applicant who retired as Assistant Post Master General (PLI), which post he held till the date of superannuation on 31.7.85, <sup>on</sup> which date he was served with two charge-sheets for disciplinary proceedings against him but both the proceedings were dropped vide order dated 20.9.89 and 13.10.89. These chargesheets pertain~~ing~~ to the period when he was functioning as AD (T). Another chargesheet was issued to the applicant on 28.4.86 for holding of enquiry into the alleged irregularity in the repair/purchase under section 9 of the C.C.S. (Pension) Rules, 1972 when the applicant was functioning as AD (T), Lucknow. The applicant expressed his inability to attend the enquiry at Delhi being heart patient. It was informed after dropping of the proceedings in the year 89, some of the pensionary benefits were released to him and no interest on the amount which was withheld for such a long period was given to him. A sum of Rs 20,182 out of Rs 1,14,972 was also paid to him and the rest amount was withheld. According to the applicant normally pension is also not being paid to

to him. The proceedings are still pending and the applicant has challenged the said proceedings on variety of grounds including that after retirement the chargesheet in respect of some acts of omission and commission which is said to have been committed by him some 4 years prior to retirement and as such in view of rule 9 of the C.S.S (Pension) Rules, 1972 under which the proceedings have been initiated, the same cannot be initiated and the said rule itself provides (Rule 9(2) (b) (ii) of C.C.S) Pension Rules 1972) that the departmental proceedings shall not be initiated in respect of the event <sup>which took place more than four years</sup> prior to superannuation. 2

The chargesheet has also been filed before us and the same indicates that last date of tenders which were invited for repairs was 17.11.80. The A.D. (T) approved the tender notice on 27.11.80 appeared in Lucknow 9 Newspapers located at ~~Delhi~~. Another tender was submitted on 5.1.81. The draft was approved on 6.1.82 to be issued under the signatures of the applicant and notice was sent to the firm on 14.1.1981. Certain ~~are~~ <sup>were</sup> other proceedings on file/going on. The concurrence of the I.F.A. was obtained on 17.2.81 and the contractor were addressed on 20.2.1981 intimating him the approval and requesting him to deposit Rs 500/- as security. Vide letter dated 24.2.81 the contractor asked for permission to allow his staff to visit the site for installation of the tower clock etc. The permission was granted on 27.2.81 and the contractor submitted the bill on 27.4.81 and without examination of bills and challans etc. the bill was sanctioned by the applicant on 29.4.81. It was in the year 1982 when the Clock stopped working and again office notings started that there was 10 years guarantee for the

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said clock given by the Contractor. Thus, the bill was paid thereafter by the applicant. Thus, everything happened concluded in the year 1981 and the charge-sheet was issued to the applicant in the year 1986 i.e., 4 years after the act of omission and commission in respect of the event in which the payment was made and everything was concluded and the disciplinary proceedings under Rule 9 of the Discipline & Appeal Rules were initiated after more than 4 years of the event. Accordingly, the proceedings ~~are~~ being barred by time, could not have been initiated in violation of Rule 9 of C.C.S. (Pension) Rules, 1972. and as such this application deserves to be allowed and the proceedings against the applicant are without jurisdiction and the said proceedings are quashed. The respondents are directed to make payment of the entire amount which has been withheld within a period three months from the date of receipt of a copy of this judgment alongwith interest @ 12%.

*Shakeel*  
Adm. Member.

*Shakeel*  
Vice Chairman.

Shakeel/

*Alaksh*  
Lucknow Dt. 31-7-91