

**CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW
BENCH, LUCKNOW**

**Original Application No.174/2012
This the 3rd Day of September 2012**

**Hon'ble Mr. Justice Alok Kumar Singh, Member (J)
Hon'ble Mr. S.P. Singh, Member (A)**

S.A. Hussain, aged about 65 years, son of Late Shri S.H. Raza, resident of -4/206, Garib Manzil, Abad Nagar, Dodhpur, Civil Lines, Aligarh.

...Applicant.

By Advocate: Sri Praveen Kumar.

Versus.

Union of India, through

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Sr. Divisional Engineer-IV, Northern Railway, Hazratganj, Lucknow.

.... Respondents.

By Advocate: Sri M.S. Rautela.

ORDER (Oral)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

This O.A. has been filed for the following reliefs:-

- “1. to release the aforesaid withheld amount of gratuity, commutation of pension, leave encashment etc. forthwith with interest @ 12% PA as the applicant is not at fault in delaying the finalization of the proceedings.
2. To finalize the proceedings pending against the applicant and take a suitable decision after taking note of the stands taken by the applicant as well as points raised by him in the enquiry proceedings/ representations preferred by the applicant.
3. Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
4. Cost of the present case”



2. Heard the learned counsel for the parties and perused the material on record. This O.A. can be disposed of at admission stage itself in the background of the facts that concededly, an enquiry was conducted against the applicant and he has already submitted his reply on 15.06.2010. But, till date no final decision has been taken. There is also no dispute on that fact that the matter of retiral benefits is also pending though, the applicant has retired on 31.07.2007. It is also noteworthy, that despite taking few opportunities no affidavit could be filed as the various order sheets reveal.

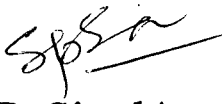
3. As said above, in the absence of any counter affidavit from the other side, it is established that inquiry officer submitted his report to Disciplinary Authority in the year 2010, holding the charges partly proved. The Disciplinary Authority issued a show cause notice to the applicant on 15.6.2010 asking for submitting reply (Annexure-A-3). It was served upon the applicant on 03.07.2012. The applicant thereafter submitted his reply on 15.07.2010 (Annexure-A-4). Then on 09.08.2010, a date was fixed for personal hearing. The applicant made himself available for the personal hearing but on that date no hearing was conducted therefore, the applicant came back. Despite the lapse of considerable time no progress has taken place. The applicant has also made representation against the said inaction on 13.12.2010 (Annexure-A-6) followed by another representations but without any effect. On account of this inaction on the part of the respondents, the applicant is being deprived from getting facilities under the health scheme and also from getting retiral benefits like leave encashment,

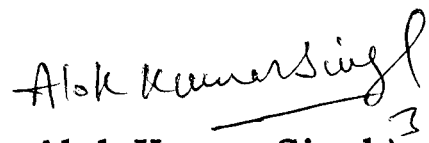
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commutation of pension and gratuity. Almost similar matter in O.A.No.268/2012, has been finally disposed of by this Tribunal on 19.07.2012 with certain directions. The learned counsel for the applicant in the present case also submits that ends of justice would be met, if the respondents are directed to take a final decision in the matter pending against the applicant within a specified time frame. As far as this request is concerned the learned counsel for other side has no objection.

4. In view of the above, the respondents/competent authority is directed to finalize the disciplinary proceedings pending against the applicant within a period of 4 months from the date a certified copy of this order is supplied to him/them. It is however made clear that we have not expressed any opinion about the merits of the disciplinary proceedings pending against the applicant. The competent authority shall also take appropriate decision regarding release of gratuity, commutation of pension and leave encashment etc. on the basis of decision taken by the disciplinary authority, within a month from the date of passing of the decision in the disciplinary proceedings.

5. The O.A. is disposed of with these observations. No order as to costs.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh)
Member (J)

3.9.12

Amit/-