

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Original Application No.268/2012^k
This the 19th day of July 2012**

Hon'ble Mr. B.V. Rao, Member (J).

Hon'ble Ms. Jayati Chandra, Member (A)

Tribhuwan Nath Shukla, aged about 65 years, son of Late Shri Ram Roop Shukla, resident of -3565/1, Vivek Nagar, Sultanpur.

...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 Ashok Kumar.

ORDER (Oral)

By Hon'ble Mr. B.V. Rao, Member (J).


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

"(1). To release the withheld amount of gratuity, communication of pension, leave encashment etc. forthwith with interest @ 12% PA as the applicant is not at fault in delayed 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 the 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 both the parties at length and perused the material on record.

3. The brief facts of the case are that the applicant while working on the post of Senior Section Engineer (Permanent Way) retired after attaining the age of superannuation on 31.05.2007. The applicant was paid all the pensionary benefits except gratuity and leave encashment. Thereafter, when the applicant represented for release of withheld pensionary benefits, a charge sheet dated 02.05.2008 was served upon the applicant for the allegation relating to the year 1994 to 2002. In response to the charge sheet dated 02.05.2008, the applicant submitted his reply on 05.05.2008. Thereafter, an enquiry was commenced on 28.08.2008. The Enquiry Officer submitted his report-dated 05.05.2009 to the Disciplinary Authority. However, the Disciplinary Authority issued show cause notice dated 10.05.2010 (Annexure-A-1) to the applicant supplying a copy of the enquiry report after the lapse of more than a year from the date of submission of the enquiry report. Immediately, on 24.06.2010 (Annexure-A-2) the applicant has submitted a detailed objection within stipulated time frame. Thereafter, the Disciplinary authority called the applicant for personal hearing fixing the date on 02.08.2010, but unfortunately, on the said date no hearing took place and the applicant was returned back. When the Disciplinary Authority has not taken any decision in the matter and sufficient time has elapsed, the applicant send a representation dated 18.03.2011 (Annexure-A-3) against the inaction on the part of the respondents followed by various representations asking

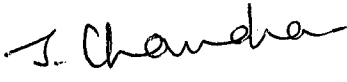
therein as to why the proceedings are not being concluded on the charge sheet. However, in furtherance of previous representations, the applicant has also submitted another detailed objection dated 10.09.2011 (Annexure-A-4) stating therein that Disciplinary Authority is not competent to issue charge sheet to the applicant as by that time, the applicant had retired from service. Learned counsel further submitted that neither decision has been taken on the charge sheet pending against the applicant nor the withheld amount has been released. It has been also submitted on behalf of the applicant that he has taken loan from Bank of Baroda, to purchase a house at Sultanpur and he also wants to repay the loan amount but, due to withholding of pensionary benefits and serving of charge-sheet the entire plan has been disturbed and he has been put to loss to great extent. Moreover, all the representations preferred by the applicant are pending undecided, which also falls within the ambit of the arbitrariness thus; it is liable to be interfered with by this Tribunal.


4. The learned counsel for the applicant submits that ends of justice would be met, if a direction is given to the respondents to take a final decision in the matter pending against the applicant within a specified time frame the purpose of filing this O.A. would be served to which counsel for other side has no objection.

5. Finally, in view of the above circumstances, the competent authority is directed to finalize the disciplinary proceedings pending against the applicant in respect of which enquiry report has already with them within a period of six months from the date a certified copy of this

order is supplied to him. Needless to say that we have not expressed any opinion about the merits of the disciplinary proceedings pending against the applicant. The competent authority should also take a decision regarding release of gratuity, commutation of pension and leave encashment etc. on the basis of decision taken by him in the pending disciplinary proceedings within a month from the date of passing of the decision in the aforesaid disciplinary proceedings.

6. The O.A. is disposed of at admission stage itself with these observations. No order as to costs.


(Jayati Chandra)
Member (A)


(B.V. Rao)
Member (J)

Amit/-