

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 751 OF 2005[Patna, this Wednesday, the 1st Day of August, 2007].C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

HON'BLE SHRI S.N.P.N.SINHA, MEMBER [ADMN.].

Bindeshwari Mahto, S/o Late Shri Mahto, resident of village & P.O.:
 Bakhadda, Via. Sahebpur Kamal, District – Begusarai.APPLICANT.
By Advocate :- Shri J.K.Karn.

Vs.

1. The Union of India through the General Manager, N.F.Railway, Maligaon, Gauhati.
 2. The D.R.M., N.F.Railway, Katihar Division, Katihar.
 3. The D.R.M [P], N.F.Railway, Katihar Division, Katihar.
 4. The Sr. Divisional Operation Manager, N.F.Railway, Katihar Division, Katihar.
-RESPONDENTS.
By Advocate :- Shri N.K.Sinha, ASC

O R D E R [ORAL]Justice P. K. Sinha, V.C.:- Heard the learned counsels for both the sides.

2. The applicant while serving in the Railway had superannuated on 31.12.2001 but at that time a departmental proceeding was continued against him. It will appear that after his superannuation the applicant, in the departmental inquiry, was found to be innocent and the charges not to have been proved against him which was considered by the disciplinary authority who, vide order dated 29.04.2002 [Annexure-A/4], accepted the report and exonerated the applicant from the charges.

3. The applicant has come here for, amongst other reliefs,

payment of retiral benefits with interest which have been, allegedly, wrongly withheld by the respondents. From the pleadings and submissions of the learned counsel for the respondents it would appear that this case had emanated from the Vigilance Department, hence as per procedure after exoneration that was sent for confirmation to the C.V.O [P]/MLG.

4. To cut short the matter, the supplementary written statement of the respondents would show that all his retiral dues were cleared including pension, gratuity, commutation of pension, etc. and ordered to be paid after receipt of 'closer advice' dated 29.08.2006 from the Vigilance/NFR. In the supplementary written statement it has been stated that since the pensionary benefits were released after 'closer advice' received from the Vigilance, no interest is payable which is reiterated by the learned counsel for the respondents. Learned counsel for the applicant submits that though after 29.08.2006 the pensionary benefits were released but those were received by the applicant only in February/March, 2007, hence there was delay of almost about five years in payment of the retiral dues including the DCRG and the arrears of pension. The learned counsel submits that in such circumstances he is not pressing any of the reliefs as made in the application but only those part of relief, in para 8 [c] & [d] in which interest upon DCRG and the arrears of pension have also been claimed.

5. This matter, therefore, has been heard only about liability of the respondents to pay the interest upon the aforesaid amounts so paid after more than five years of superannuation of the applicant.

6. The facts that are apparent ^{on} the face of the record are that

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the applicant on some charges had faced departmental inquiry and, ultimately, after his superannuation he was exonerated of the charges by the disciplinary authority. After exoneration by the disciplinary authority the matter was sent to the Vigilance for their concurrence. Obviously, there is no such statutory disciplinary rule which provides for super-imposition of a direction from the Vigilance over a decision taken by the disciplinary authority under his own discretion. This matter was considered in a Division Bench decision of this Tribunal in **OA 130 of 2001 [Ram Ekbal Yadav Vs. Union of India & Ors.]** disposed of on 09.04.2007 in which, considering various decisions of the different Benches of the Tribunal and the decisions of the Apex Court [in the case of **Railway Construction Co. Ltd. Vs. Ajay Kumar; 2003 [2] SLJ 334**, and in the case of **Nagraj Shivarao Karjagi Vs. Syndicate Bank, Head Office, Manipal & Anr.; [1991] 3 SCC 219**] this Tribunal had held that no such power was vested in the Vigilance.

7. We, therefore, do not find any justification for creating a super disciplinary authority in the shape of Vigilance who could uphold or thumb down a conscious decision taken by the disciplinary authority who alone, in the first instance, is authorised to take a decision on the punishment under 'The Railway Servants [Discipline & Appeal] Rules, 1968.

8. In any case, even the Vigilance had agreed that the charges needed to be dropped, and exoneration was upheld. Obviously, therefore, that the applicant was deprived of his retiral dues particularly his DCRG and arrears of pension for a long period for none of his fault but on account of delay on the part of the Railway authorities including Vigilance because

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though the disciplinary authority ordered on 29.04.2002 about exoneration of the applicant, it took further three years to make the payments.


9. Therefore, we are of the opinion that the respondents are liable to pay interest upon the belated payments of DCRG as well the arrears of pension.

Respondents are, therefore, directed to pay interest upon the DCRG and the amount of arrears of pension w.e.f. the date of retirement of the applicant, till those amounts were actually paid @ 8% p.a.. This should be paid within three months of the receipt of a copy of this order whereafter the rate of interest would stand raised to 12% per annum from the date of expiry of the three months period, till those are actually paid to the applicant.

With the aforesaid directions, this application is disposed of.

No costs.


[S.N.P.N.Sinha]/M[A]


[P.K.Sinha]/VC

skj.