

(252)

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,  
JAIPUR.

OA 246/92

DA Date of Order : 28.3.92

Sripal Jain ... Applicant.

Mr. S.K.Jain ... Counsel for applicant.

Vs

U.O.I. and others ... Respondents.

Mr. Manish Bhandari ... Counsel for the respondents.

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CORAM :

Hon'ble Mr. Justice D.L.Mehta, Vice Chairman

Hon'ble Mr. B.B.Mahajan, Admin. Member.

Mr. B.B.Mahajan, Admin. Member :-

Sripal Jain filed this application under section 19 of the Administrative Tribunal Act for issue of direction for quashing the charge sheet issued appointment of the Enquiry Officer and the show cause notice issued to him and for direction to pay to him the death-cum-retirement gratuity (D.C.R.G.) and commuted pension.

2. The applicant had been served with a charge sheet on 10.3.87. The enquiry was conducted and thereafter a show cause notice was issued to him on 29.9.91 (Annexure-A/2) with which a copy of enquiry report was also sent. The applicant submitted his reply on 2.12.91, (A/44). No order on the same have so far been passed. The applicant retired from service on 31.3.89.

1. We have heard the counsel for the parties.

4. So far as the commutation of pension is concerned, the applicant has stated that there is no provision in the rules under which the commutation of pension can be withheld pending the result of the disciplinary proceedings against an employee. The learned counsel for the respondents has not been able to show us any rule which may authorise the withholding of commutation of pension pending the decision on the disciplinary proceedings. Withholding of commutation of pension was thus wholly unauthorised. So far as the D.C.R.G. is concerned, under rule 315 (1) of the rules in Manual of Railway Pension Rules, 1950 (1969 ed), no D.C.R.G. is to be paid to retirees until the conclusion of disciplinary proceedings against him, which may have been initiated while he was in service and continued under rule 315 proviso (a). However, in this case, there has been inordinate delay in decision on the disciplinary proceedings although the applicant had submitted reply to the show cause notice on 2.12.91 and more than 8 months have passed since then.

The intention of the Rule cannot be to authorise the withholding of D.C.R.G. indefinitely on the plea that the departmental proceedings have not concluded. The rule must be read to authorise the withholding of D.C.R.G. only for a reasonable period required for concluding these proceedings.

(i) The applicant in the application has raised a number of objections against the disciplinary proceedings taken in this case. We do not propose to decide all those objections at this stage. We are of the opinion that it will be appropriate if a direction is issued to the disciplinary authority to pass final order on the enquiry report after considering the reply submitted by the applicant within 4 months of this order. If the final orders are not passed within this period, there will be no justification for withholding the D.C.R.G. further.

(ii) In view of the above, we allow the application to the extent that the commutation of pension as admissible under the rules shall be paid to the applicant within 1 month of this orders and we direct the respondents to pass final orders on the disciplinary proceedings which are pending, within 4 months of this orders. In case final orders is not passed in the disciplinary proceedings within this period of 4 months, the applicant shall be entitled to the payment of D.C.R.G. forthwith. No orders as to costs.

Sd/-  
(E.B. MAHAJAN)  
Admin. Member

Sd/-  
(D.L. MEHTA)  
Vice Chairman

Order No 17/9192