

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 17th December, 2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

1. **ORIGINAL APPLICATION NO. 10/2005**

Vijay Singh Dharwal son of Shri Ramdayal, aged about 61 years,
retired HSG II P.A. Sawaimadhopur, HPO at C-780, Budh Vihar,
Alwar.

.....APPLICANT

(By Advocate: Mr. Manu Bhargava)

VERSUS

1. Union of India through Secretary, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
2. Principal Chief PMG, Rajasthan, Jaipur.
3. Director, Postal Services, Jaipur Region, Jaipur.
4. Superintendent Post Offices, Sawaimadhopur.

.....RESPONDENTS

(By Advocate: Mr. T.P. Sharma)

2. **ORIGINAL APPLICATION NO. 11/2005**

Vijay Singh Dharwal son of Shri Ramdayal, aged about 61 years,
retired HSG II P.A. Sawaimadhopur, HPO at C-780, Budh Vihar,
Alwar.

.....APPLICANT

(By Advocate: Mr. Manu Bhargava)

VERSUS

1. Union of India through Secretary, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
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(By Advocate: Mr. T.P. Sharma)

ORDER (ORAL)

By this common order, we propose of dispose of both these OAs.

2. In OA No. 10/2005, the applicant has made challenge to the charge sheet dated 05.12.2003 and order dated 12.07.2004 whereby the proceedings have been converted in Rule 9 of CCS (Pension) Rules, 1972.

3. In OA No. 11/2005, the relief prayed for by the applicant is that respondents may be directed to make payment of retrial benefits to the applicant as he has already retired on superannuation on 31.12.2003.

4. As can be seen from the grounds raised in the OA No. 10/2005, the challenge is based on the ground that (i) the matter is not of serious nature which warranted proceedings in Rule 9 of CCS (Pension) Rules, 1972. (ii) It cannot be said to be a case of grave misconduct so as to warrant proceeding under Rule 9 ibid and the charge leveled against the applicant is that he remained absent from duty 01.01.1999 to 26.11.2003.

5. Notice of this application was given to the respondents. Respondents in the reply have stated that the inquiry initiated against the applicant could not be finalized till the date of his retirement on superannuation on 31.12.2003, as such in view of the provisions contained in the Rule, the pending proceedings were deemed to be proceedings under Rule 9 of CCS (Pension) Rules, 1972. It is further stated that FIR No. 232/95 under Section 420 & 120B of IPC was registered by the SHO Bhiwadi IA Police Station against the applicant for payment of money order received in the Post Office for three firms. Further stand of the respondents is that the case of the applicant for payment of provisional pension was sent to the Director of Accounts (Postal) Jaipur for authorization of provisional pension on 22.01.2004

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pending disciplinary proceedings against him, which was returned to the office with the direction that as per Rule 27 of CCS (Pension) Rules, 1972, an interruption in the service of a Govt. servant entails forfeiture of his past service. Since the applicant was absent from duty w.e.f. 01.01.1999 to 26.11.2003, therefore the service prior to 01.01.1999 is presumed to be forfeited. Thus the case of authorization of provisional pension was not considered by the Director of Accounts (Postal) Jaipur and it was conveyed by the Director that the case of Rule 14 enquiry regarding finalization of provisional pension be settled first. It is further stated that the case of the applicant was sent to the Principal CPMG for review and vide Principal CPMG letter NO. Pen/2-1/24/2004-2005 dated 18.5.2004, the Director of accounts (Postal) was directed to authorize provisional pension case under Rule 69 of CCS (Pension) Rules, 1972, but the position remained unchanged. Thus the stand of the respondents in not releasing pensionary benefits is that the departmental proceeding against the applicant is pending.

6. We have heard the learned counsel for the parties and have gone through the material placed on record. On 16.10.2008, learned counsel for the respondents had brought to your notice a letter dated 25.04.2008 written by the Superintendent of Post Office, Sawaimadhopur Division, perusal of this letter reveals that departmental proceedings initiated against the applicant has been completed and the matter has been referred to the President of India for appropriate order. Thereafter, the matter was adjourned from time to time. Learned counsel for the respondents could not apprise this Tribunal whether any final order has been passed by the President of India on the basis of the final report submitted by the Inquiry Officer.

7. In view of what has been stated above, we are of the view that it will not serve any purpose to keep these OAs pending since the inquiry in the matter has already been completed and only the final order is required to be passed by the competent authority based on the finding given by the Inquiry Officer and reply, if any, filed by the applicant against the inquiry report. Accordingly, without going into merit of the OAs, both these OAs can be disposed of at this stage with liberty

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reserved to the applicant to file substantive OA, if any, against the final order to be passed by the President of India pursuant to the inquiry held in the matter. It will be permissible for the applicant to raise all such pleas in the OA to be filed by him against the impugned order, if any, to be passed by the President of India including the pleas raised in this OA against the issuance of the charge sheet and non payments of retrial benefit after superannuation of the applicant.

8. With these observations, both these OAs are disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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