

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.153/04

Jabalpur this the 6th day of October, 2004.

CORAM

Hon'ble Mr.Madan Mohan, Judicial Member

V.J.Saurkar
S/o Late Shri J.K.Saurkar
Sub Post Master
(Retired) Harpalpur
R/o Naya Panna Naka
Behind Hanuman Mandir
Chhatarpur (MP)

Applicant

(By advocate Shri Sudeep Chatterjee on behalf
of Shri A.G.Dhande)

Versus

1. Union of India through
Secretary, Ministry of
Post & Communication
Govt. of India, New Delhi.
2. The Director, Postal Services
Indore Division, Indore.
3. Chief Postmaster General
M.P.Circle, Bhopal.
4. Superintendent of Post Offices
Chhatarpur Division
Chhatarpur.

Respondents

(By advocate Shri S.Akhtar on behalf of
Shri B.Dasilva)

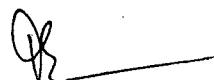
O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the
following reliefs:

- (i) Quash the impugned order dated 23.1.04 (Annexure A8).
- (ii) Direct the respondents to compute the amount of
retiral dues and other benefits to the applicant in
accordance with law.

2. The brief facts of the case are that the applicant
entered service as Sub Postmaster on 28.5.1954 and rendered
33 years of service. He was compulsorily retired vide order
dated 9.2.1988 (Annexure A1). The applicant preferred an



appeal against the order of compulsory retirement before the appellate authority but the same was rejected on 1.11.89. The applicant preferred an OA No.479/90 which was dismissed on 29.3.96 as his counsel could not appear. When the applicant was compulsorily retired, his basic pay was Rs.1680/- and therefore entitled for pension at the rate of Rs.840/- but the same has now been fixed at Rs.810/- without giving any benefits of DA. The balance amount which the applicant is entitled to receive is Rs. 4,98,316.37, details of which are mentioned as Annexure A3. Applicant filed another OA No.884/96 claiming the said amount of retiral benefits. The said OA was disposed of directing the applicant to make a representation to the respondents and the respondents were directed to dispose it of after taking a decision on the claims of the applicant by a speaking order within three weeks. The applicant made a detailed representation. Since the representation of the applicant was not decided within the time stipulated, he filed a contempt petition No.79/03 which was dismissed by order dated 3.2.2004 (Annexure A7). Respondent No.2 by order dated 23.1.2004 stated that the applicant was already paid the DCRG amount in 1988 and was also paid in 1997 and the entire blame has been fastened on the applicant for causing delay. The applicant is entitled for interest due from the respondents. This has not been paid so far. Hence this OA is filed. Impugned order dated 23.1.2004 (A-8) deserves to be quashed.



3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was compulsorily retired on 9.2.88. He filed an appeal which was dismissed and in this regard an OA No.479/90 was also dismissed. The respondents have not paid the balance amount of Rs.4,98,316.37 so far and even after filing a subsequent OA 884/96, the respondents did not decide the representation of the applicant within stipulated time as directed by the Tribunal vide order dated 21.2.2003 and the respondents have passed the impugned order dated 23.1.2004 (Annexure A8) which is against rules. Hence the same deserves to be quashed and the applicant is entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that the applicant was placed under suspension vide order dated 23.10.1984 on account of a criminal case that was registered against him under Sections 323,294 of the IPC by the Nowgong Police Station. In criminal case No.256/84, the applicant was convicted and awarded the penalty of simple imprisonment of 9 months with a fine of Rs.500 vide order dated 3.11.1988. However, before conviction, the suspension of the applicant was revoked vide order dated 9.7.86 and the applicant was posted as SPM, Devendranagar. Immediately on his retirement, provisional pension of the applicant amounting to Rs. 542/- was sanctioned by the competent authority and an amount of Rs.8960/- was also paid to the applicant towards provisional gratuity. Against the conviction in the criminal case, the applicant had preferred an appeal before IVth



Additional District and Session Judge, Chhattarpur.

The appellate court vide order dated 22.11.89 maintained the conviction but modified the punishment by directing that the applicant shall be released under Section 360 of Cr.PC by producing a security of Rs.2000 and shall live by maintaining peace and good conduct upto 2 years. It was conveyed by the applicant that he had preferred an appeal before the Hon'ble High Court. However, inspite of several reminders, the applicant could not furnish information about the outcome of the appeal or its details. As per the provision of Rule 69 (c) of the CCS Pension Rules 1972, gratuity may be withheld if any judicial proceedings are pending. Inspite of the above mentioned facts, the pension case of the applicant was finalised taking a sympathetic and lenient view and PPO dated 22.4.97 was issued. Vide order dated 14.3.97 gratuity amounting to Rs.26880 was sanctioned. The applicant was also paid leave encashment of Rs.5635 and arrears of pension Rs.53768/-. The respondents have complied with the directions given in OA 884/96 which was decided on 21.2.2003. There has been no delay in disbursement of the retirement dues of the applicant, on the part of the respondents. The applicant was paid provisional pension during the pendency of the case even though he has not furnished till date any order of the High Court, confirming his exoneration. Hence the impugned order passed by the respondents dated 23.1.2004 (A-8) is perfectly legal and justified.



4. After hearing learned counsel for both parties, and careful perusal of the records, I find that the applicant was convicted in a criminal case under Section 323 and 294 of IPC and he was awarded the penalty of simple imprisonment of 9 months with fine of Rs.500 vide order dated 3.11.88. The appellate court vide order dated 22.11.89 maintained the conviction but modified the punishment by directing that the applicant ~~be held~~ shall be released under section 360 of ~~the~~ by producing a security of Rs.2000 and he was directed to maintain peace and good conduct upto 2 years. Learned counsel of the applicant argued that the judgement of the lower court was set aside by the appellate court and ~~the~~ the applicant was released under Section 360 of ~~the~~ by producing a security bond. This argument is not at all legal and the appellate court maintained the conviction and apparently the applicant was found guilty by the appellate court also but the appellate court simply modified the punishment awarded by the lower court concerned. It does not mean that the applicant was exonerated from the charges levelled against him by the appellate court and the applicant himself has admitted that he had filed an appeal, before the Hon'ble High Court which is still pending. Under these circumstances, it is clear that the applicant is not yet exonerated from the charges levelled against him by the competent court. Even then the respondents ~~are~~ taking a lenient and sympathetic view for release of the DCRG amount and they have released the DCRG amount while according to Rule 69 sub clause (ii) of CCS (Pension) Rules they could have withheld it till the final exoneration of the



applicant from judicial proceedings. As the applicant is not exonerated from the charges, he is not entitled for the reliefs claimed.

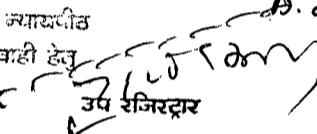
The OA has no merit. Accordingly the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member

aa.

पृष्ठांकन सं. ओ/न्या.....जबलपुर. दि.....
प्रतिरिदिति तात्पर्य प्रिया:-

(1) राधेश, उक्त एवं उक्त नाम के व्यक्ति, जबलपुर
(2) आदेश की/श्रीमती/स्त्री के नाम सम्म A.G. Ohanda
(3) प्रसा. की/श्रीमती/स्त्री के नाम सम्म B. dasi
(4) दंपत्ति, राधेश, जबलपुर व्यापारी।

सूचना एवं आवश्यक कार्यकारी हेतु 
उपर रजिस्ट्रार

Agreed
on 7.10.57
B.B.