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THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

ORDERS OF THE TRIBUNAL


31.03.2009

OA No. 199/2007 with MA 124/2008

Mr. C.B. Sharma, Counsel for applicant.
Mr. Kunal Rawat, Sr. Standing Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 31st day of March, 2009

ORIGINAL APPLICATION NO. 199/2007

With

MISC. APPLICATION NO. 124/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

K.K. Gupta son of Shri U.S. Gupta, aged about 61 years, resident of Type III/4, P&T Colony, Dadabari Kota and retired from the post of Assistant Post Master, N.G. Mandi, Head Post Office, Kota.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Senior Superintendent of Post Offices, Kota Division, Kota.

.....RESPONDENTS

(By Advocate : Mr. Kunal Rawat, Sr. Standing Counsel)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That respondents be directed to release full pension with the pensionary benefits i.e. DCRG, Commutation and leave encashment alongwith interest at Market rate by quashing letter dated 8.5.2007 (Annexure A/1) with the charge Memo dated 10.12.1992 (Annexure A/4) with the further proceedings with all consequential benefits.
- (ii) That the respondents be further directed to not to further proceed in the departmental proceedings and same should be dropped and applicant be extended benefits of promotions withhold due to proceedings and further benefits of suspension period with all consequential benefits.

- (iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

2. Briefly stated, facts of the case are that the departmental proceedings were initiated against the applicant in the year 1992 which was followed by appointment of the Inquiry Officer on 23.02.1993. The aforesaid departmental proceedings were challenged by the applicant by filing OA No. 20/1994 before this Tribunal. One of the grievances of the applicant in that OA was that the order of the Inquiry Officer thereby rejecting the prayer for staying the proceedings be quashed. This Tribunal, however, did not accept the said prayer of the applicant and the same was rejected. However, in Para No. 4 of the order, this Tribunal had directed the Disciplinary Authority to consider whether the Inquiry report has been submitted in relation to the same facts or inter-linked or connected facts and if so then the applicant will be entitled to get the limited stay only upto the charges which are identical or inter-linked with the criminal case. In case the charges are not connected then the Disciplinary Authority can act according to law. However, it was made clear that charges are separable then the Disciplinary Authority can pass the final order in relation to the charges which are separable and which are not inter-linked or similar. The said judgement of the Tribunal was challenged by the respondents by filing the Writ Petition before the Hon'ble High Court and which has also been rejected. It may be stated here that Criminal case instituted against the applicant for the alleged allegations, which was the subject matter of the charge sheet resulted into conviction by the Trial court. However, subsequently the applicant was acquitted vide judgement dated 18.01.2007 (Annexure A/7) by holding the prosecution has failed to prove the case beyond reasonable doubt. Since in the meanwhile, the applicant has retired from service, the applicant submitted a representation on 24.01.2007 (Annexure A/8) after acquittal by the Appellate Court to pay him retiral dues on account of his acquittal by the Trial Court. The respondents have rejected the representation of the applicant vide order dated 08.05.2007 (Annexure A/1). It is this order which is challenged in this OA.

3. While issuing notice on 06.06.2007, this Tribunal has directed the respondents not to proceed in departmental proceedings as initiated vide letter dated 08.05.2007 (Annexure A/1) till the next date. The said stay is still continuing.

4. Notice of this application was given to the respondents. The respondents have opposed the claim of the applicant thereby stating that the departmental inquiry under Rule 14 of the CCS (CCA) Rules have been based on the infringement of departmental rules mentioned in the charge sheet under Rule 14, hence the charges cannot be said similar, identical and inter-linked with reference to the allegation u/s 420 & 409 of the IPC. Hence the above proceedings cannot be dropped and the same are being referred to the competent authority under Rule 9 of the CCS (Pension) Rules for decision. The respondents have stated that claim of the applicant regarding pensionary benefit etc. can be considered only after the conclusion of the departmental inquiry, which has now been converted into Rule 9 of the CCS (Pension) rules and for which purpose, the matter is being referred to the competent authority.

4. We have heard the learned counsel for the parties and have gone through the material placed on record. We are of the view that as yet no decision has been taken by the competent authority to proceed with the matter under Rule 9 of the CCS (Pension) Rules. As can be seen from the material placed on record, reference is being made to the competent authority for converting Rule 14 of CCS (CCA) Rules, 1965 to that of Rule 9 of CCS (Pension) Rules, 1972. Thus we are of the view that the present OA is premature as competent authority has not yet taken any decision to proceed under Rule 9 of the CCS (Pension) Rules. In view of the fact that the applicant has been acquitted by the Criminal Court on the basis of the evidence, this aspect may also be taken into consideration by the competent authority while considering the case as to whether the proceedings under Rule 9 of the CCS (Pension) Rule, 1972 is necessitated and also keeping in view the fact that the charge sheet in this case was issued in the year 1992 and department has not proceed with the matter till date. Since the applicant has retired from service and his retiral dues and other benefits have been withheld, the competent authority is directed

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to decide the matter within a period of two months from the date of receipt of a copy of this order.

5. With these observations, the OA is disposed of with no order as to costs. It is made clear that we have not gone into merit of the case and this OA is disposed of on the reasoning given hereinabove. IR granted on 06.06.2007, which has been continued from time to time, shall stand vacated.

6. In view of the order passed in the OA, no order is required to be passed in MA No. 124/2008, which is also disposed of accordingly.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ