

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 25th day of July, 2010

Original Application No. 413/2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

Mahaveer Sharma
s/o Shri Fundi Lal Sharma,
retired Mechanist,
r/o of House No.67,
Durga Colony, behind T.A. Campus,
Near Gautam Kirana Store,
Kota Junction, Kota.

... Applicant

(BY Advocate: Shri P.V.Calla)

Versus

1. The Union of India
through the General Manager,
West Central Railway,
Jabalpur.
2. The Chief Works Manager,
Wagon Repair Shop (WCR),
Kota Junction,
Kota.

... Respondents

(By Advocate: Shri Anupam Agarwal)

ORDER

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

"The Hon'ble Tribunal may kindly call for the entire record of the case and examine the same and by an

appropriate writ, order or directions the respondents may be directed to release gratuity amount of the applicant with interest.

Further by an appropriate writ, order or directions the respondents may be directed to release arrears of amount payable on account of introduction of 6th Pay Commission Report in the various heads as mentioned hereinabove in para No. 4(5).

Any other relief to which the applicant is found entitled, in the facts and circumstances of the present case may also be granted in favour of the applicant.

The original application may kindly be allowed with costs."

2. As can be seen from the prayer clause, the main grievance of the applicant is regarding payment of gratuity amount which has been withheld by the Department on account of criminal case pending against the applicant. The grievance of the applicant in this case is that the respondents had no authority to withhold the gratuity and other retiral benefits as the incident for which criminal case is pending neither relates to the affairs of the railway administration nor it is a case of moral turpitude. It is further stated that the lis was between the Bank and one Shri Bal Ram Singh. As such, direction may be given to the respondents to release the retiral benefits of the applicant.

3. The respondents in the reply have stated that the applicant was taken into police custody after arrest on 19.8.1993 at 6.00 p.m.. It is further stated that the applicant was arrested for the offence under Section 420,467, 468 and 120 IPC. Accordingly he was suspended w.e.f. 20.8.1993 which was subsequently revoked and pursuant to thereof he joined on 30.12.1993. The fact that the applicant is getting provisional pension is not disputed. According to the respondents, the applicant was not entitled to release of all

referral dues at the time of his retirement or subsequent to it in terms of Rule 9 of the Railway Servants (Pension) Rules, 1993, ^{in which stipulates that} in the case of a railway servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 10 shall be sanctioned. It is further stated that Rule 10((1)(c) of the Pension Rules restricts release of gratuity. Thus, according to the respondents, the applicant is not entitled to gratuity amount in terms of the aforesaid rules till conclusion of the criminal proceedings.

4. I have heard the learned counsel for the parties and gone through the material placed on record.

5. The learned counsel for the applicant while drawing my attention to the averments made in para-4(3) of the OA argued that in fact criminal case pertains to the Bank and Shri Bal Ram Singh and such case is of civil nature, as such in terms of Railway Board instructions as issued vide RBE No.25/2004 dated 5.2.2004 (Ann.A/9), the gratuity amount cannot be withheld.

6. I have given due consideration to the submissions made by the learned counsel for the applicant. I am of the view that the applicant cannot draw any assistance from the aforesaid RBE No.25/2004. As can be seen from the instructions stipulated in the aforesaid RBE, it has been stipulated that judicial proceedings should not be continued as deemed proceedings under Rule 9 of Railway Services (Pension) Rules, 1993 if such proceedings pertains

to mere civil cases of property disputes between a Railway servant and any other private party, or partition suit without any criminal angle involved and with which railway has no concern, or divorce suits having no bearing on the conduct of the Railway servant, as laid down in Railway Servants (Conduct) Rules, 1966. According to me, this is not a case of such nature. In the instant case, criminal proceedings were initiated for the offences under Section 420,467, 468 and 120 I.P.C which offences are of serious nature. The fact that the applicant was also arrested by the police, *prima-facie*, show involvement of the applicant in the aforesaid crime. Thus, under these circumstances, it cannot be said that such conduct of the applicant does not come in the preview of Railway Servants (Conduct) Rules, 1966. Thus, in view of the clear mandate contained in Rule 10(1) (c) of the Railway Servants (Pension) Rules, which debar payment of gratuity to a railway servant against whom judicial proceedings are pending and the fact that the applicant has not made out a case in terms of RBE No.25/2004, no direction can be given to the respondents to release gratuity amount to the applicant till conclusion of the judicial proceedings.

7. Thus, I find no merit in this application, which is accordingly dismissed with no order as to costs.



(M.L.CHAUHAN)
Judl. Member

R/