

Reserved on 10.7.2018

**Central Administrative Tribunal, Allahabad Bench,
Allahabad**

Original Application No.330/00060/2018

This the 13 day of July, 2018

Hon'ble Mr. Justice Bharat Bhushan, Member (J)

Rama Kant Pandey aged about 62 years son of late Badri Prasad resident of village Sayo Sarawan, Tehsil Chail, District- Kaushambi.

Applicant

By Advocate: **Sri V.P. Shukla**

Versus

1. Union of India through Secretary, Ministry of Heavy Industries and Public Enterprises, Udyog Bhawan, New Delhi.
2. Bharat Pumps and Compressors Limited (BPCL) Govt. of India Enterprises through its Chairman, Naini, District- Allahabad.
3. Managing Director, Bharat Pumps and Compressors Limited, Naini, Allahabad.
4. Senior Manager, Finance/Financial Controller, Bharat Pumps and Compressors Limited, Naini, Allahabad.

Respondents

By Advocate: **Sri P.K. Sinha and Sri Jaswant Singh**

ORDER

By Hon'ble Mr. Justice Bharat Bhushan, Member (J)

The applicant has filed this O.A. u/s 19 of the Administrative Tribunals Act, 1985 with the prayer to direct the respondents to pay the terminal dues of the applicant amounting to Rs. 12,00,000/- along with 12% interest from the date of non-payment. It is also prayed

that respondents be directed to decide the representation of the applicant dated 11.9.2017.

2. The brief facts emerging from the O.A. are that the applicant, a permanent employee of Bharat Pumps and Compressors Limited, Naini, Allahabad retired on 31.7.2016. In the year 1981, a Cooperative Society (Vetan Bhogi Sehkari Samiti) was formed by the members of the employees of Bharat Pumps and Compressors Limited (Respondent No. 2) which is only responsible for the payment of any dues of the bank loan taken by the members of the said society. Applicant was the President of the above society.

3. In the month of July, 2016, an allegation was levelled against the applicant that he had misused the power of his post with the help of Secretary Sri B.N. Rai by diverting the funds. Inquiry was conducted by respondent No. 2. Charges of Memorandum dated 28.6.2016 was sent to the applicant and applicant submitted his reply. Inquiry report was submitted by the Inquiry Officer and after considering the record of the inquiry, the respondent No. 2 passed order dated 25.4.2017 (Annexure A-4) whereby all charges levelled against the applicant were dropped and he was exonerated from said charge.

4. Applicant retired on 31.7.2016 but his retiral dues were not paid. Several representations were made by the

applicant about his terminal dues but the respondents have neither paid his terminal dues nor given any reply to the representation.

5. Notices were issued to the respondents who in turn filed the counter reply whereby it is stated that retiral dues of the applicant were not paid to the applicant on the advice of Allahabad District Cooperative Bank Limited since the bank apprehended financial irregularity in the account of the society. It is further submitted that retiral dues of the applicant will be released after the cooperative society's account is inspected and cleared by the officials of the Allahabad District Cooperative Bank Limited.

6. Rejoinder was filed by the applicant wherein he has reiterated the facts as stated in the O.A. and denied the contents of the counter reply. However, it is stated that as per the letter dated 11.1.2002 issued by the respondent No. 4 and letter dated 19.4.1982 issued on behalf of respondent No.3, it is crystal clear that Company Bharat Pumps and Compressors Limited (BPCL) entered into agreement with Allahabad District Cooperative Bank Limited which entails that on the loan advanced by the Bank to the employees of the BPCL, deductions were to be made by the management of the BPCL from salary of the employee as per installment

fixed by the bank, hence there was no liability on the applicant being the office bearer of the society.

7. Heard Sri V.P. Shukla, the learned counsel for applicant and Sri P.K.Sinha and Sri Jaswant Singh learned counsel for respondents and perused the pleadings available on record.

8. From perusal of record, it is clear that the present O.A. has been filed by the applicant for payment of retiral dues to the applicant which was not paid to the applicant on the advice of Allahabad District Cooperative Bank Limited since the bank apprehended financial irregularity in the account of the society. An allegation was levelled against the applicant that he had misused the power of his post with the help of Secretary by diverting the funds. Inquiry was conducted and applicant was exonerated from the charges despite that respondents have not paid the retiral dues to the applicant.

9. Evidently, three separate entities are involved in the entire dispute. The applicant was employee of B.P.C.L. which is a Govt. of India Enterprises situated in Naini District Allahabad and subsidiary of Bharat Yantra Nigam Limited and comes under the control of Ministry of Heavy Industries & Public Enterprises, New Delhi. The stated cooperative society (Vetan Bhogi Sehkari Samiti) was formed by the employees of BPCL in the year 1981

which evidently had no direct legal connection with BPCL. The only evident connection is that the aforesaid society was formed by the employees of BPCL. Third entity is Allahabad District Cooperative Bank.

10. Apparently, the arrangement was that if any employee of the BPCL, as a member of society, had taken loan from Allahabad District Cooperative Bank, then BPCL would deduct installment fixed by the bank from the salaries of the employees. This arrangement discloses no liability of applicant as a office bearer of society as then he was. In any case, admittedly an inquiry was conducted against the applicant. Memorandum of charges were furnished to the applicant Rama Kant Pandey. Copy of which is annexed as Annexure No. 3 to the Original Application (in short O.A.). A detailed inquiry was conducted and after conducting the inquiry, Sri Rama Kant Pandey was exonerated from all the charges. Copy of final order dated 25.4.2017 is available on record as Annexure-4. The relevant portion of this order is reproduced below:-

“(a) Finding of Article-1

Finding after the inquiry of charge mentioned in Article -I shows that the charges somehow does not hold any ground and seems to be incorrect. It is seen from the facts and findings that as a President Sri R.K.Pandey

should have been more vigil, control & authority on Co-operative related dealings.

(b) Finding on Article -II

In report submitted by Inquiring Officer, it is mentioned that Sri Rama Kant Pandey took initiatives to deposit the amounts in co-operative society as suggested by Audit Teams in the audit report 2012-13 of Rs. 4,63,091.00. Though or early recovery of the amount, the action from President side was not there in initial stages from year 2010-2012. However, it is seen from the findings that none of the charges are proved against Sri R.K. Pandey, Sr. Foreman (Now superannuated) including money laundering and any favour from co-operative side for his personal gain.

4. AND WHEREAS on careful consideration of the report of the Inquiry Officer and other records of the case in the light of the submissions made by Sri R.K. Pandey in his personal hearing, together with the advice of the Commission, the undersigned had decided to accept the findings of the Inquiry Officer and the advice of the Commission.

5. NOW, THEREFORE, after considering the record of the inquiry and the facts and circumstances of the case and going through the inquiry details carefully and the report and observation of Inquiring Authority, the undersigned is of the view that the charge(s) given in the Memorandum No. GM (MKTG/QC/Vigilance/2016/301) dated 28.6.2016 could not be established and **Sri Rama Kant Pandey, Sr. Foreman (QCX) (now superannuated) is hereby exonerated from all charges.**

This is in line with provisions under Para 12 'c' of Guidelines Regarding Disciplinary Proceedings in Vigilance case as circulated vide circular No. BPC/CVO/DPR/2013-654 dated 22.12.2013."

11. Surprisingly, despite the exoneration of applicant Sri Rama Kant Pandey, his retiral dues were withheld by the BPCL. BPCL itself has no reason or ground to withhold the entire retiral dues of the applicant. As of now, no inquiry or criminal proceedings are pending against the applicant. Apparently, BPCL has withheld the retiral dues of the applicant merely on the bland request made by the Allahabad district Cooperative Bank vide letter dated 31.5.2016, copy of which is available on

record as Annexure CR-1. Even this letter does not disclose any indication of pending inquiry or criminal proceedings. This letter merely indicates that bank is not able to examine and inspect the record of Cooperative Society. Perhaps they apprehended or assumed some financial irregularities. They asked BPCL to withheld the retiral dues of the applicant and BPCL has meekly complied without inquiring the reasons for the same.

12. It is pertinent to point out that the applicant retired in 2016 and he was exonerated by the Inquiry Officer on 25.4.2017 Since then no departmental or criminal proceedings are pending against the applicant. Therefore, to deny the applicant of his retiral dues is nothing but plain harassment. In fact, this Tribunal has not been apprised of pendency of any investigation of any kind against the applicant.

13. Counter reply of BPCL itself indicates that retiral dues of applicant were not paid merely on the advice of Allahabad District Cooperative Bank. The Tribunal believes that two years subsequent to the retirement of the applicant were sufficient to ascertain any alleged misdemeanor of applicant, which has not been done.

14. It is evident that as of now, no inquiry or investigation is pending against the applicant. Under the circumstances, BPCL has no right to withheld the retiral

dues of the applicant. Accordingly, O.A. is allowed. Respondents No. 2,3 and 4 are directed to release the remaining retiral dues of the applicant within 2 months. The applicant will be entitled of interest @ 6% per annum on his retiral dues for non-payment from 25.4.2017 i.e. the date of his exoneration till the date of actual payment of retiral dues. In case, his retiral dues are not paid within two months, then the applicant would be entitled of 12% interest from the date of 25.4.2017 till actual payment. No order as to costs.

**(JUSTICE BHARAT BHUSHAN)
CHAIRMAN**

HLS/-