

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A.No.4490/2015

Order reserved on 19<sup>th</sup> October 2016

Order pronounced on 25<sup>th</sup> October 2016

**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mrs. Asha Prabha Bhardwaj  
Aged about 60 years  
ZRO (Retd.)  
South West-II, Vasant Kunj, New Delhi  
r/o House No.25, Type-3<sup>rd</sup>, Jal Vihar Colony  
New Delhi – 110 024

..Applicant

(Mr. Malaya Chand, Advocate)

Versus

Delhi Jal Board  
Through its CEO  
Varunalaya, Jhandewalan  
New Delhi - 110 055

..Respondent

(Mr. Himanshu Upadhyay, Advocate)

## **O R D E R**

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main reliefs:-

- “i) Quash and set aside the impugned order dated 2-12-2015.
- ii) direct the respondent to release the post retirement benefits viz. leave encashment, gratuity and commutation.
- iii) direct the respondent to pay interest @18% (As per decision of Apex Court in case of Vijay L. Mehrotra v. State of U.P. & Ors: JT 2000 (5) SC 171).”

2. Brief facts of the case are as under:-

2.1 The applicant joined the respondent as Lower Division Clerk (LDC) on 01.01.1973. She retired from the service on 30.09.2015. Her retiral benefits have not been released on the pretext that a vigilance inquiry is pending against her and that such benefits shall be released only after the vigilance clearance is issued (impugned Annexure A-1 order dated 02.12.2015).

2.2 The applicant had earlier approached this Tribunal in O.A. No.3961/2015, which came to be disposed of at the admission stage itself vide order dated 05.11.2015 with a direction to the respondent to duly consider the representation dated 06.10.2015 of the applicant and pass a speaking order within two weeks from the date of receipt of a copy of the order.

2.3 Pursuant to the said direction of the Tribunal, the respondent has disposed of the said representation of the applicant vide impugned Annexure A-1 order dated 02.12.2015.

2.4 The grievance of the applicant is that there was no vigilance inquiry against her on the date of her retirement on 30.09.2015 and as such the retiral dues ought to have been released to her.

3. Pursuant to the notice issued, the respondent entered appearance and filed its reply. The applicant thereafter filed the rejoinder. With the completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 19.10.2016. Mr. Malaya Chand, learned counsel for applicant and Mr. Himanshu Upadhyay, learned counsel for respondent argued the case.

4. From the perusal of the records, it is seen that the applicant had suffered two charge sheets dated 25.05.2014 and 25.08.2015, both of which culminated into imposition of penalty of censure on her. The penalty orders passed by the disciplinary authority in these charge sheets are at Annexure A-3. Both the penalty orders were issued on 24.09.2015.

5. The contention of the respondent is that a third vigilance inquiry was pending against the applicant at the time of her retirement and in connection with which a charge sheet dated 29.09.2015 was issued to her just a day before her retirement. But it is noticed from Annexure A-6, which is a letter dated 16.11.2015 from the Administrative Officer (Vigilance) of the respondent – Delhi Jail Board (DJB) to the Executive Engineer (SW)II, enclosing therewith a copy of the charge sheet purported to have been issued on 29.09.2015, that the Executive Engineer (SW)II has been directed to serve the charge sheet on the applicant. It is pertinent to note here that the applicant had already retired on 30.09.2015. Annexure A-6, therefore, stands as a testimony to the fact that the third charge sheet had been issued to the applicant after almost one and half months of her retirement. Hence, the charge sheet is legally not sustainable. As a matter of fact, the respondent is obliged to follow the procedure laid down under Rule 9 of CCS (Pension) Rules, 1972 for taking any disciplinary action against the applicant post her retirement.

6. From the discussions in the foregoing paragraphs, it is quite clear that on the date of her retirement, i.e., 30.09.2015, there was no charge sheet issued to the applicant. The respondent might have decided internally in its

file to issue the charge sheet to her but the actual service of the charge sheet on her was done on or after 16.11.2015, as is evident from Annexure A-6.

In this view of the matter, I am of the firm opinion that the applicant is entitled for release of her retiral benefits.

7. I, therefore, dispose of the O.A. with the following directions to the respondent:-

- i) All the retiral benefits of the applicant shall be released by the respondent within a period of one month from the date of receipt of a copy of this order.
- ii) The applicant shall be paid interest @ 9% p.a. on the retiral benefits w.e.f. 01.10.2015 and till the date when such benefits are actually released to her.

The respondent is, however, at liberty to proceed against the applicant in accordance with Rule 9 of CCS (Pension) Rules, 1972, if it feels that there are some charges against the applicant, for which disciplinary action is required to be taken against her.

No order as to costs

**( K.N. Shrivastava )**  
**Member (A)**

/sunil/