

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 350/00693/2018

Date of Order: 08.06.2018

Present: Hon'ble Mrs. Manjula Das, Judicial Member

Nur Hosen Dhali, son of Late Yusuf Dhali, aged about 60 years, worked as Chief Commercial Clerk under the Station Supdt... Ghutiari Shariff Rly. Station, Sealdah Divn.. Eastern Rly. (since retired from service on superannuation when under order of suspension; residing at Dakshin Chhayanipara, P.O. – Ramkrishna Pally, P.O. – Sonarpur, dist – 24-Pgs. (s), Kolkata – 700 150.

-VS-

1. Union of India
Through the General Manager
Eastern Rly.. 17, N.S. Road
Kolkata – 700001.
2. The Divisional Railway Manager
Sealdah Division, Eastern Railway, Sealdah
Kolkata – 700014.
3. The Senior Divisional Personnel Officer
Sealdah Division, Eastern Railway, Sealdah
Kolkata – 700014.
4. The Divisional Commercial Manager
Sealdah Division, Eastern Railway, Sealdah
Kolkata – 700014.
5. The Sr. Divisional Commercial Manager
Sealdah Divn., Eastern Rlyl., Sealdah, Kolkata – 700014.



.....Applicant.

.....Respondents.

For the Applicant : Mr. K. Sarkar

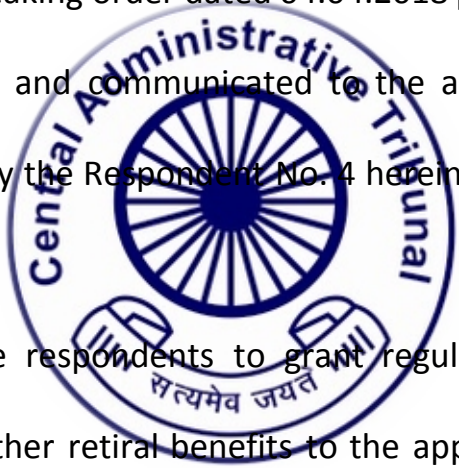
Ms. A. Sarkar

For the Respondents : Mr. M.K. Bandyopadhyay

ORDER (ORAL)

Per Mrs. Manjula Das, Judicial Member:

Being aggrieved, the Applicant preferred this O.A. under Section 19 of the Administrative Tribunal Act, 1985 seeking the following reliefs:-

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- "8.(i) to direct the respondents to cancel, withdraw and/or rescind the reasoned speaking order dated 04.04.2018 passed by the Respondent No. 2 herein and communicated to the applicant vide memo. dtd. 04.04.2018 by the Respondent No. 4 herein as contained in Annexure "A-3" herein;
- (ii) to direct the respondents to grant regular pension, DCRG, Leave salary and other retiral benefits to the applicant forthwith from the date of his retirement from service on superannuation along with the statutory interest therefore;
- (iii) to direct the respondents to declare that there was no disciplinary pending at the time of retirement from service on superannuation against the applicant;
- (iv) to direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for effective adjudication of the issues involved herein;
- (v) And to pass such further or other order or orders as to this Hon'ble

Tribunal may deem fit and proper.”

2. At the outset of moving of the matter, the learned counsel for the applicant submits that vide order dated 04.04.2018, the Divisional Railway Manager, Eastern Railway, Sealdah, Respondent No. 2 has passed a purported order by stating that provisional pension has already been granted to the Applicant, however, regarding other settlement benefits, the decision will be taken after finalization of the DA proceedings.

3. It was submitted by the learned counsel for the Applicant that earlier, the Applicant had approached this Tribunal vide O.A. 143/2018 where this Tribunal vide order dated 12.02.2018 disposed of the said O.A. directing the Respondents to consider and dispose of the representation of the Applicant dated 2.12.2017 within a period of six weeks.

4. The Applicant also had approached this Tribunal vide O.A. 208/2018 and this Tribunal vide order dated 23.02.2018 set aside the memorandum of charge dated 31.01.2018.

5. According to the learned counsel for the Applicant, after that, although disbursement of pension has been issued vide order dated 04.04.2018 however, some benefits, that is, commuted portion of leave – 0, Family Pension of Rs. 0 & Dearness Relief as admissible from time to time, Gratuity – 0 etc, have not been disbursed. Thus, the Applicant is aggrieved by the impugned order dated 04.04.2018.

6. On the other hand, the learned counsel for the Respondents vociferously submits that earlier order dated 12.02.2018 in O.A. No. 143/2018 was

not on merit and the another order dated 23.02.2018 in O.A. No. 208/2018 was only set aside the memorandum of charge dated 31.01.2018. However, the decision for settlement benefits will be taken after finalization of the DA proceedings.

7. Heard Mr. K. Sarkar, learned counsel for the Applicant assisted by Ms. A. Sarkar and Mr. M.K. Bandyopadhyay, learned counsel for the Respondents. Perused the pleadings and the documents.

8. From the perusal of record, it is seen that the Applicant was initially approached this Tribunal by filing O.A. No. 143/2018 where this Tribunal vide order dated 12.02.2018 disposed of the said O.A. directing the Respondents to consider and dispose of the representation of the Applicant dated 2.12.2017 by passing a well reasoned order as per rules and regulations in force within a period of six weeks and communicate the same to the Applicant forthwith.

9 This Tribunal while taking up the O.A. No. 208/2018, allowed the same by setting aside the memorandum of charge dated 31.01.2018 on 23.02.2018. Relevant portions of the said judgment and order dated 23.02.2018 are being reproduced as follows :-

“8. Secondly, if there is any similar circumstance i.e. that the Railway servant was under suspension on the date of his retirement and departmental proceeding are continued after retirement from service and charge memorandum is proposed to be issued, the first paragraph i.e. format has to be followed as per the guidelines. In the instant case the respondents failed to make the issue of memorandum of charge dated 31.1.2018 not in accordance with the format which appears at Annexure A/8.

9. Apparently there is a fundamental flaw in the issuance of the impugned memorandum of charge dated 31.1.2018 and hence has no legs to stand on so as to continue the said memorandum

of charge. After taking into entire conspectus of the case we have no hesitation to set aside the memorandum of charge dated 31.1.2018 which we hold as bad in law and cannot be sustained. Accordingly, the impugned memorandum of charge dated 31.1.2018 is set aside.”

9. In compliance to the aforesaid orders, the Respondents have passed a reasoned and speaking order dated 04.04.2018 by which some benefits have not been granted stating as hereunder:-

“As regards the settlement benefits of the applicant, provisional pension has been granted in favour of the applicant vide PPO Number 20187020600338 dated 04.04.2018 along with disbursement of Provident Fund of Rs. 5,62,137/-, and Group Insurance of Rs. 65825/ keeping in view of the relevant establishment Rules. Regarding other settlement benefits the decision will be taken after finalization of the DA proceedings.”

10. Further, on 23.04.2018, Divisional Finance Officer for FA&CAO/ER issued Provisional Pension Payment Order by mentioning as hereunder:-

“Commuted portion of Rs. 0 to be deducted from pension from to or date of death whichever is earlier. Dearness Relief applicable on pension as admissible from time to time.

Enhanced Family Pension of Rs. 0 & Dearness Relief as admissible from time to time upto 30/11/2024 or 7 years next day of death of employee whichever is earlier and after that ordinary family pension of Rs. 0 & Dearness as admissible from time to time till his/her lifetime or remarriage whichever is earlier.

Details of Family Members eligible for family Pension – No Family Member
Quantum of the additional pension payable on completion of 80 years of age is as follows:

X	X	X	X
Eligible for Medical Allowance			
Gratuity	0	paid/will be paid by Railway, hence	
Commutation	0	no action required by Bank.	
Debitable to: EASTERN RAILWAY, through RBI.			
Please quote the PPO Number in all your correspondence.”			

11. From the above, in my considered view, some clarifications are required as to the issue of the pensionary as well as other consequential benefits and for withholding of gratuity, for which, I deem fit and proper to direct the

Applicant to approach the appropriate authority for its clarification.

12. Accordingly, without going into the merit of the case, I direct the Applicant to make a detailed comprehensive representation before the competent authority ventilating his grievances in regards to the pension as well as pensionary benefits along with consequential benefits, within a period of fifteen days from the date of receipt of this order.

13. On receipt of such representation proposed to be made by the Applicant, the Respondent Authorities shall consider and dispose of the same within a period of two months thereafter.

14. It is made clear that, whatever decision to be arrived by the Respondent Authorities, shall be reasoned and speaking and shall be communicated to the Applicant forthwith.

15. Needless to mention here that, if the Applicant is aggrieved by the decision to be arrived by the Respondent Authorities, he may approach before this Tribunal for redressal.

16. O.A. stands disposed of accordingly.

17. No order as to costs.



(Manjula Das)
Member (J)