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OA 350/940/2017

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, KOLKATA BENCH, KOLKATA

O. A. No. 350000 940 of 2017

IN THE MATTER OF:

JYOTISH TIRKEY,

son of Late Nirmal Tirkey, aged about 74 years, residing at Gayatri Nagar, Munger Road No. 4, Jamalpur, Bihar, Pin-811214 retired from with effect from 30.11.2003 while working as Workshop Cashier, Eastern Railway, Jamalpur Workshop, under the Chief Cashier, Eastern Railway, Kolkata-700001;

...Applicant

-Versus-

1. UNION OF INDIA service through the General Manager, Eastern Railway, Kolkata, 17, N.S. Road, Fairlie Place, Kolkata- 700001.

2. THE FINANCIAL ADVISER & CHIEF ACCOUNTS OFFICER (PENSION), Eastern Railway, 17, N.S. Road, Fairlie Place, Kolkata- 700001.

Jyotish Tirkey
Wl

3. THE CHIEF ACCOUNTS OFFICER,
Eastern Railway, Stores Department, 17,
N.S. Road, Fairlie Place, Kolkata- 700001.

4. THE WORKSHOP ACCOUNTS OFFICER,
Eastern Railway Jamalpur Workshop,
Bihar, Pin-811214.

5. THE DEPUTY CHIEF ACCOUNTS
OFFICER (W), Eastern Railway Jamalpur
Workshop, Bihar, Pin-811214

... Respondents.

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O.A.No.350/940/2017

Date : 18.07.2017

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the applicant : Mr.P.C. Das, counsel
Ms. T. Maity, counsel

For the respondents : Mr. S.K. Das, counsel

ORDER

A.K. Patnaik, Judicial Member

The instant O.A. has been filed by the applicant challenging the impugned charge sheet dated 25.06.1990 along with the Article of Charges issued against him, the enquiry proceedings dated 15.04.1993 and 16.04.1993 and the impugned Enquiry Report dated 20.04.1993 communicated to him vide office letters dated 15.09.2015 and 12.09.2015 after a lapse of 22 years.

2. In the O.A., the applicant has prayed for the following reliefs:-

"a) To quash and/or set aside the impugned Charge-Sheet in departmental proceedings dated 25.06.1990 along with Article of Charges issued by the Deputy Chief Accounts Officer(W), Eastern Railway, Jamalpur Workshop, Bihar, Pin-811214 against the applicant being Annexure A-1 of this original application;

b) To quash and/or set aside the impugned Enquiry Proceedings dated 15.04.1993 and 16.04.1993 initiated against the applicant being Annexure A-6 of this original application;

c) To quash and/or set aside the impugned Enquiry Report dated 20.04.1993 which was communicated to the present applicant by the railway authority vide office letters dated 15.09.2015 and 12.09.2015 after lapse of 22 years by violation of the RS(DA) Rules, 1968 being Annexure A-9 and A-10 of this original application.

d) To declare that the entire departmental proceedings which has been initiated by the railway respondents against the applicant on the ground of inordinate delay and on the ground communicated the enquiry report after lapse of 22 years by violation of RS(DA) Rules, 1968 is otherwise bad in law and illegal and may be liable to be quashed and/or set aside along with the entire proceeding including Enquiry Report and further directed the

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respondent authority not to withhold the settlement dues and retiral benefits of the applicant and to disburse the same in favour of the applicant with up-to-date interest;

e) To pass an appropriate order directing upon the respondent authority to disburse the settlement dues and full pensionary benefit in favour of the applicant along with all retiral benefit in favour of the applicant with interest after setting aside and/or quashing the departmental proceeding on the ground of inordinate delay."

3. I have heard Mr. P.C. Das, Id. Counsel appearing for the applicant. Id. Counsel for the respondents Mr. S.K. Das is also present and heard.

4. It appears from the records that the matter came up before the Hon'ble Administrative Member on 03.07.2017 on which date certain order was passed. I am in full agreement with the said order passed by the Hon'ble Administrative Member on 03.07.2017 regarding the provisions of passing an interim order.

5. Id. counsel for the applicant, Mr. P.C. Das submitted that the applicant who is a retired person is being deprived of his settlement dues as well as the revised pensionary benefits against which he submitted representations to the authorities on 12.09.2016 and on 13.09.2016 ventilating his grievances therein(Annexure A/11 to the O.A.), but the said representations have not been considered till today.

6. Right to know the result of the representation that too at the earliest opportunity is a part of compliance of principles of natural justice. The employer is also duty bound to look to the grievance of the employee and respond to him in a suitable manner, without any delay. In the instant case, as it appears, though the applicant submitted representations to the authorities ventilating his grievances, no reply has been received by him till date.

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7. It is apt for us to place reliance on the decision of the Hon'ble Supreme Court of India in the case of **S.S.Rathore-Vrs-State of Madhya Pradesh, AIR1990 SC Page 10 / 1990 SCC (L&S) Page 50** (para 17) in which it has been held as under:

"17.Redressal of grievances in the hands of the departmental authorities take an unduly long time. That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be deprecated and authorities on whom power is vested to dispose of the appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible. Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation."

8. Considering the aforesaid facts and circumstances, I do not think that it would be prejudicial to either of the sides if a direction is issued to the respondents to consider and decide the representation of the applicant as per rules and regulations governing the field. Accordingly the Respondent No.2 or Respondent No.3 i.e. the F.A. and C.A.O., Eastern Railway, Kolkata or the Dy. Chief Accounts Officer(N), Eastern Railway, Jamalpur is directed to consider and dispose of the representations of the applicant, if such representations are pending for consideration, by passing a well reasoned order as per rules and intimate the result to the applicants within a period of four weeks from the date of receipt of a certified copy of this order. If the applicant's claim is found to be genuine, the benefits as claimed in his representations be granted to him within period of further 4 weeks from the date of taking decision in the matter.

9. It is made clear that I have not gone into the merits of the case and all the points raised in the representations are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.



10. As prayed by Mr. P.C. Das, a copy of this order along with the paper book may be transmitted to the Respondents No.2 and 3 by speed post by the Registry for which Mr. Das undertakes to deposit the cost within one week.

11. With the above observations the O.A. is disposed of. No order as to cost.

(A.K. Patnaik)
Judicial Member

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