



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/560/2016

Date of order : 2.11.2017

Present: Hon'ble Ms. Manjula Das, Administrative Member

PRIYA LAL ROY
S/o Late Nanda Lal Roy
R/o Viveknagar,
(Khsudiramnagar),
Kaugachi No.1,
Jagaddal,
Pin - 743127.

...APPLICANT

VERSUS

1. The Union of India,
Service through the Secretary,
Ministry of Communications &
Information Technology,
Dak Bhawan,
Samsad Marg,
New Delhi - 110011.
2. The Sr. Accounts Officer (Pension)
Kolkata Airport Sorting Division,
Kolkata - 700028.
3. The Sr. Superintendent,
Kolkata Airport Sorting Division,
Kolkata - 700028.
4. The Head Record Officer,
Kolkata Airport Sorting Division,
Kolkata - 700028.

...RESPONDENTS

For the applicant : Mr.P.S.Das, counsel

For the respondents: Ms.D.Nag, counsel

O R D E R (ORAL)

Mrs. Manjula Das, Judicial Member

Being aggrieved for non-releasing of gratuity the applicant approached this Tribunal with the following reliefs :

- a) An order be passed directing the respondents and/or each of them and/or their men, servants, agents assigns and representatives to release the gratuity of the applicant with immediate effect;

- b) An order be passed directing the respondents and/or each of them and/or their men, servants, agents, assigns and representatives to give interest @ 18% per annum on the amount due as gratuity from the date of retirement of the applicant;
- c) An order be passed calling upon the respondents and/or each of them. Their servants, agents or assigns to certify and send up to this Hon'ble Tribunal all the records of the instant case so that after perusing the same necessary relief as prayed for could be passed;
- d) Necessary order as to costs;
- e) Such further order or order be made and/or direction or directions be given as to this Hon'ble Court may deem fit and proper.

2. Heard Mr.P.S.Das, Id. Counsel appearing for the applicant and Ms.D.Nag, Id. Counsel appearing for the respondents.

3. The issue before me to decide is to whether the applicant is entitled to the gratuity amount. Id. Counsel for the applicant submits that the applicant was an employee under the department in the Group 'C' post and retired as MTS Group 'C' on 28.2.2015. After retirement he got his retirement benefits except the amount of gratuity. It was submitted by the Id. Counsel for the applicant that the applicant persuaded for the gratuity to the respondent authorities but the respondent authorities did not disburse the gratuity as the criminal proceeding under Section 498A of IPC was pending before the Learned Judicial Magistrate 5th Court at Barrackpore against the applicant. It was further submitted by the Id. Counsel that although the criminal proceeding was pending against the applicant, the applicant was acquitted vide order dated 22.11.2016 in GR 442/95 arising out of T 123/2016. As such due to acquittal there is no proceeding either disciplinary or criminal, pending before the Court against the applicant and the applicant is entitled to gratuity being retired on 28.2.2015.

4. On the other hand Ms. D.Nag, Id. Counsel for the respondents admitted that the applicant was acquitted vide order dated 22.11.2016. However, the said order was delivered to the respondent authorities a little late and the respondent authorities got the order on 26.10.2017. As such there was some delay for releasing the gratuity amount. Id. Counsel has no objection for making the payment of gratuity.

5. I have heard the ld. Counsel for both sides and perused the pleadings, as well as the judgment dated 22.11.2016 passed in GR 442/95 arising out of T No. 123/2016. From the certified copy of the judgment of the criminal proceedings it reveals that the certified copy was issued to the applicant on 8.12.2016 which contains the acquittal order of the applicant. The copy of the order of Court was submitted before the respondent authorities on 26.10.2017 which is also admitted to by the ld. Counsel for the applicant.

6. As per Rule 50 of CCS (Pension) Rules, 1972 a Government servant is entitled for pension/gratuity on retirement/death on attaining eligibility. The applicant retired long back in 2015. Rule 69 of the Pension Rules 1972 provides that –

“1(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.”

It is admitted fact that there is a 498A criminal proceeding pending before the appropriate criminal Court for which the department was not in a position to clear the gratuity amount to the applicant though retired. From the judgment dated 22.11.2016 it appears that the decision has already been arrived by the criminal court by acquitting the applicant. As such in my view there is no hurdle of the department to release the gratuity as per law.

7. As such the OA is allowed. No costs.

(MANJULA DAS)
JUDICIAL MEMBER

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