

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

O.A. No.4564/2017

Friday, this the 30th day of August 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Dr. T R Ramteke, age 63 years
s/o late Sh. SHiv Ram Tamteke
r/o B-7/ F-2, B Block
Dilshad Garden, Delhi – 110 095

(Mr. Prabhakar Narain, Advocate)

..Applicant

Versus

1. Govt. of NCT of Delhi through
The Chief Secretary
Govt. of NCT of Delhi
Delhi Secretariat, New Delhi
2. The Secretary Health & Family
Welfare Department
Govt. of NCT of Delhi
9th Level, Delhi Secretariat
New Delhi
3. The Medical Superintendent
Guru Teg Bahadur Hospital
Dilshad Garden, Delhi – 110 095
4. The Pay and Account Officer
PAO VIII, GTB Hospital
Dilshad Garden, Delhi – 110 095

..Respondents

(Mrs. Harvinder Oberoi and Mr. G D Chawla, Advocates)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Chief Medical Officer in Guru Teg Bahadur Hospital, the 3rd respondent herein. Two

months before his retirement, he was issued a show cause notice dated 23.12.2013 requiring him to explain as to why disciplinary action be not taken against him. It was mentioned that the applicant was a member of 'pre-qualification of e-tender committee' for procurement of certain materials and to notice any irregularities, in the context of procurement of materials. The applicant submitted his explanation on 07.01.2014. This was followed by another show cause notice dated 04.02.2014 and it was replied by the applicant on 08.03.2014. Ultimately, the applicant retired from service on 31.08.2014. His grievance is that he has not been paid retirement benefits, though there was no legal impediment.

This O.A. is filed with a direction to the respondents to quash the show cause notice dated 23.12.2003 and to direct the respondents to release all the retirement benefits, with interest @ 18%.

2. The applicant contends that when the proposal was mooted for initiation of disciplinary proceedings, the competent authority has taken the view that such a course is impermissible in view of the prohibition contained in Rule 9 (2) (b) of CCS (Pension) Rules, 1972, and despite that, the proceedings were initiated and the respondents have not released the retiral benefits.

3. On behalf of the respondents, counter affidavit is filed. It is stated that the irregularities, that have taken place in the hospital, became a matter of serious concern, at some stages, the CBI has investigated the matter. It is stated that the applicant was part of the committee and since the entire matter is under inquiry, the retirement benefits were withheld in contemplation of the disciplinary proceedings.

4. We heard Mr. Prabhakar Narain, learned counsel for applicant and Mrs. Harvinder Oberoi, learned counsel for respondents, at length.

5. It may true that the applicant was issued two show cause notices dated 23.12.2013 and 04.02.2014, pointing out certain issues. Promptly enough, the applicant submitted replies on 07.01.2014 and 08.03.2014. In case the respondents felt that the applicant is guilty of any acts or omission, which constitutes misconduct, it was open to them to issue a charge memorandum and thereby institute disciplinary proceedings.

6. The record discloses that such an effort was, in fact, made and on noticing that the alleged procurement of materials pertains to the year 2010, and in view of bar contained under Rule 9 (2) (b) of CCS (Pension) Rules, the proceedings cannot be initiated at this stage.

7. In the ordinary course the matter should have rested at that and given a quietus, at least insofar as it concerns the

applicant. However, the respondents refused to release the retirement benefits of the applicant on the ground that the inquiry is still in progress.

8. The view taken by the respondents is totally impermissible in law. On retirement, an employee is entitled to be paid all the benefits and pension, and the only exception is where an employee is facing any disciplinary proceedings. Even in such cases, the provisional pension and the entire amount of gratuity is to be released. When no charge memo is issued to the applicant, the question of withholding of retirement benefits does not arise.

9. The O.A. is allowed and the respondents are directed to release the retirement benefits of the applicant, within two months from the date of receipt of a copy of this order. If the amount is not paid within that time, it shall carry interest @ 9% per annum, from the date of expiry of one month, till the date of payment.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

August 30, 2019
/sunil/