



CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA

OA No. 350/00493/2014

Dated of order: 10.02.2016

PRESENT:

THE HON'BLE MR. JUSTICE V.C.GUPTA, JUDICIAL MEMBER  
THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

SMT. GITA RANI KUILYA  
V/S  
POSTS

For the Applicants : Mr.A.Chakraborty, Counsel  
For the Respondents : Mr.S.K.Ghosh, Counsel

ORDER

JUSTICE V.C.GUPTA, JM:

Heard, the learned counsel for both sides and perused the records.

2. The applicant was serving in the postal department as Postmaster, Jhargram Head Post Office. She was due to retire in the year 2013. However, she made a request to retire voluntarily w.e.f. 8<sup>th</sup> August, 2011. After 01.08.2011, the Department proceeded to fix the provisional pension of the applicant w.e.f. 07.02.2012 equal to 100% of pension. The applicant claimed that the dues after her retirement were not disbursed, she approached this Tribunal by filing OA No. 1234 of 2011. During the pendency of that OA, charge sheet was issued against her for the alleged

(Signature)

misconduct. This Tribunal after taking note of all these facts came to the conclusion that no criminal proceeding or departmental proceedings were pending when she was voluntarily retired from service. Admittedly, she was not under suspension when she was retired on 1.8.2010. The charge sheet was issued for the first time on 19.7.2013. The Departmental proceedings are still going on and not yet decided finally. This Tribunal, thus, directed the authorities to consider release of pensionary benefits and in these facts and circumstances to pass a speaking and reasoned order. In pursuance of the order of this Tribunal, the authorities decided not to release the pensionary benefits in her favour vide order dated 3.3.2014 taking the help of Rule 69 (A) of the CCS (Pension) Rules, 1972.

The learned counsel for the Respondents failed to demonstrate that enquiry was even contemplated on the date of her retirement i.e. on 1.8.2011. Admittedly, no criminal proceedings were also pending nor initiated by that time against the applicant.

It has been contended on behalf of the Respondents that the applicant proceeded to take the advantage of the voluntary retirement on her own accord without the approval of the competent authority. Hence, she cannot take the benefit of Rule 69 of the aforesaid Rules.

(Sd/-)

3. Once the provisional pension equal to 100% was sanctioned by the department in the year 2012 i.e. prior to the date of the normal date of retirement the department is stopped to say that they had not accepted the VR of the applicant. Such conduct of the authority especially when the employer is a state is deprecated.

In so far as the question pertaining to withholding the pensionary benefits is concerned, this Tribunal has already held in earlier litigation taking all facts and circumstances into consideration that the respondents have not acted fairly.

The circumstances has not yet been changed except that the enquiry has not yet concluded. No punishment order has been passed. Therefore the order passed by the authorities is not sustainable at all. It is accordingly set aside.

However, the applicant shall be paid all pensionary benefits subject to the decision to be taken in the enquiry pending against her.

4. This OA is accordingly disposed of. No costs.

(Jaya Das Gupta) \\  
Admn. Member

(Justice V.C. Gupta)  
Judicial Member