

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A. 350/00290/2016

Date of order : 27.4.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

MAHESH RAY

VS.

UNION OF INDIA & ORS. (Defence).

For the Applicant : Mr. S.N. Roy, Counsel

For the Respondents : Mr. S. Banerjee, Counsel

O R D E R (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard Ld. Counsel for the applicant, Ld. Counsel for the respondents and Shri Pradip Kumar, Commander Works Engineer.

2. It is not in dispute that the chargesheet has been issued on the ground that the applicant fraudulently on the basis of forged documents obtained appointment. The enquiry has not yet been concluded. During pendency of the enquiry, the applicant retires after attaining the age of superannuation.

3. In view of the above, unless the enquiry is concluded. There is no order of dismissal is in operation hence the department cannot withhold provisional pension

4. The law cited by the Ld. Counsel for the respondents in Shri Ram Alias Bhikham Singh vs. Chairman cum Managing Director, UPPCL & others decided by the Allahabad High Court on 23.12.2015 in Writ Petition No. 7962 of 2010 (S/S).

This extends no help to the respondents as has no application in the matter. Para 9 relied upon by Ld. Counsel for the respondents clearly speaks that no benefit has been accrued to the applicant after rendering 27 years of service after passing the order of dismissal. Here in this case enquiry is yet to be concluded.

5. Hence, we are of the view that direction should be issued to respondent/competent authority to take the decision within one month from today with regard to payment of provisional pension.

6. The respondents/competent authority is (are) directed to decide the matter with regard to payment of provisional pension to the applicant within one month from the date of communication of this order.

7. Hence in view of the above direction, the O.A. is finally disposed of at the admission stage without calling for the reply.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP