

LIBRARY

1

CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH

No. OA 350/01130/2014

Date of order : 8.9.2015

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

PHANINDRALAL BANERJEE

VS

UNION OF INDIA & ORS.

For the applicant : Mr.T.K.Biswas, counsel

For the respondents : Mr.B.K.Roy, counsel

O R D E R (ORAL)

Heard both the ld. Counsels. This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. In an earlier OA being OA 759/06 the applicant prayed for a direction upon the respondents that the orders of retirement be set aside and the period of his suspension from 17.1.03 to 29.6.03 be treated as on duty. The OA was disposed of by a direction upon the General Manager, Eastern Railway or any competent authority to consider the representation dated 18.4.05 and reminder on the representation dated 18.2.06 and take appropriate action as admissible under the Rules within a period of three months from the date of receipt of a certified copy of this order.

The respondent authorities passed an order dated 9.9.08 stating that his date of birth was 1941 and the order passed by Sr. DOM/Sealdah dated 27.6.03 was justified.

The applicant then filed OA 1133/08 assailing the orders of the respondents dated 9.9.08, 27.6.03, 14.8.03 and 17.1.03 to retire him from service w.e.f. 30.6.01. It was the contention of the applicant that according to his correct date of birth he should retire on 2004. The OA was disposed of with an observation as follows :

"The applicant has not proved his case that his date of birth is 6.10.1944. Accordingly he is not eligible for the benefits including pension for overstay in service beyond 31.12.2001. According to the service records, the applicant attained the age of 60 years w.e.f. 31.12.2001."

Orders for recovery was quashed. The respondent No.3 was directed to refund the excess pay and allowances that was recovered from the applicant.

In view of the said directions and observations the applicant ought to have been deemed to have superannuated w.e.f. 31.12.04.

3. In this OA the applicant has prayed for the following reliefs :

- a) An order directing the respondents to re-fix of retiral dues on the basis of pay received on 31.12.01 and arrears payable therefore and also consider the representation dt. 10.1.13 (Annexure A/12) within specific period.
- b) An order directing the respondents to release the gratuity as should be admissible to the applicant on the basis of pay as on 31.12.01 and re-calculated arrear thereto be paid to him forthwith along with interest from 31.12.01 for delayed payment as per law;
- c) An order directing the respondents to release the leave salary for the period and upto 31.12.01 be re-calculated and arrear as may be admissible be paid forthwith and also release the dues service benefits of suspension period.

4. Since the representation dated 10.1.13 preferred to the appropriate authorities seeking release of the admissible retiral dues with interest is still pending and no adverse orders have been passed as yet, but considerable time has elapsed since the date of retirement, the OA is disposed of with a direction upon the respondent No.4 or any other competent authority to look into the grievance of the applicant and release all retiral benefits as would be accrued to him upon his superannuation w.e.f. 31.12.01 with interest as due and admissible in accordance with law within three months from the date of communication of this order.

5. The OA is accordingly disposed of. No order is passed as to costs.

B. Banerjee
(BIDISHA BANERJEE)
MEMBER (A)

in