

**Central Administrative Tribunal
Madras Bench**

OA/310/00271/2017

Dated the 19th day of November Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

A.Vetriselvan,
Flat No.9, Third Floor,
Block D1, Kendriya Vihar,
Paruthipattu, Kamaraj Nagar,
Avadi, Chennai 600071.

.. Applicant

By Advocate **M/s.P.R.Satyanarayanan**

Vs.

1. Union of India, rep by
The Secretary,
Department of Telecommunications,
M/o Communications & IT,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi 110001.
2. Member (Finance),
Department of Telecommunications,
M/o Communications & IT,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi 110001.
3. Principal Controller of Communication Accounts,
Department of Telecommunications,
Tamilnadu Circle,
Chennai 600028.

.. Respondents

By Advocate **Dr.G.Krishnamurthy**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The applicant has filed this OA seeking the following relief:-

“.....to call for the records relating to proceedings No.37-51/2015-SEA(L) dated 15.2.2016 issued by the first respondent and quash the same as arbitrary and illegal and direct the respondents to pay all his retirement benefits like DCRG, commutation and also leave encashment etc. along with interest @ 18% p.a. from the date it has fallen due and pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. The applicant has retired on 28.2.2015 as Deputy Controller of Communication Accounts (Dy.CCA), Office of the Principal Controller of Communication Accounts, Tamilnadu Circle.
3. The respondents had issued a letter No.09-03/2014-SEA-1 dated 23.2.2015 had informed him that he is permitted to retire on superannuation under Rule 69 of CCS (Pension) Rules, 1972 showing pendency of a disciplinary proceedings issued on 29.9.2014. So, his retiral benefits and leave encashment etc. were withheld. But the respondents have dropped the charge as per proceedings No.8-9/2014-Vig.II dated 10.4.2015. So, according to him, since charge memo is dropped which was pending at the time of retirement, he is entitled to get his retiral benefits.
4. He gave representation to the respondents. But there was no response. He filed OA 1660/15 seeking settlement of retirement benefits. The Tribunal directed the respondents to consider the representation and pass orders within four weeks.
5. Thereupon, the respondents had issued the impugned order No.37-51/2015-

SEA(L) dated 15.2.16 stating that a separate charge memo is issued dated 06.5.15 under Rule 9(2)(b)(ii) of CCS (Pension) Rules, 1972 and they also informed that vigilance clearance is not issued so far and benefits cannot be released. According to the applicant, the imputations made in the second charge dated 06.5.15 is that of the year 2009 and it cannot be proceeded as more than 4 years had already passed. So, the order passed on 15.2.16 cannot be sustained. He is entitled to get all the benefits with interest.

6. The respondent more or less admitted the facts and admit that the disciplinary proceedings mentioned in Annexure A2 is relating to the charge memo dated 29.9.14 and the said charge was dropped by the respondents as per Annexure A4 dated 10.4.15. So, the order for retirement under Section 69 of CCS (Pension) Rules is now over. But the respondents would contend that they had issued a fresh charge memo regarding deficiencies in tendering process for purchase of Batteries at Regional Office, Madurai and it is pending and his pension benefits cannot be released. It is also stated that the applicant got retired and the second charge memo was issued only on 06.5.15 and it is pending as on date when the reply was filed (dated 24.1.18).

7. We have heard the counsel for the applicant as well as the counsel for the respondents. The applicant herein prays for quashing the reply given by the respondent dated 15.2.16 holding that there exist another disciplinary proceedings against the applicant. On a perusal of the Annexure A2 issued by the respondents, the reasons for permitting to retire on 28.2.15 under Rule 69 of the CCS (Pension) Rules was pendency of a disciplinary proceedings as per charge memo dated 29.9.14.

There is no mention of any other pendency of disciplinary action on the date of retirement. The respondent themselves admit that, the said disciplinary proceedings ended in dropping of charge memo on 10.4.15 (Annexure A4). As per the reply filed by the respondents, a second charge memo was issued to the applicant only on 06.5.15. So, the only charge memo issued and pending on the date of retirement was dropped. So, the action of the respondents not granting retiral benefits thereafter is not justified in this case. So, the order passed as Annexure A2 was not in existence on 10.4.15 and the respondent has not issued any notice to the applicant regarding the pendency of disciplinary action in any other case till they issued second charge memo on 06.5.15. The respondents has not considered this aspect in the Annexure A10 reply. So, the order dated 15.2.16 cannot be sustained. As per Rule 9, retiral benefits can be withheld only if any disciplinary action is pending at the time of retirement. -

“9. Right of President to withhold or withdraw pension

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 69 shall be sanctioned.”

The alleged second charge memo was not pending and no enquiry was on when the applicant retired.

8. The charge memo issued subsequent to the retirement was already quashed by this Tribunal in OA 1631/15 and there is nothing which prevent the respondents from releasing the retiral benefits. Regarding the claim of 18% interest, we find that the action of withholding the benefits was done only due to the initiation of disciplinary

proceedings. It was not due to any laches on the part of the respondents. So, the applicant is not entitled to get any interest as claimed.

9. Hence, we hereby direct the respondents' authority to release the retiral benefits and other benefits, if any, withheld within a period of three months from the date of receipt of a copy of this order.

10. With the above direction, the OA is disposed off. No costs.

(T.Jacob)
Member(A)

19.11.2019

(P.Madhavan)
Member(J)

/G/

Annexures referred to by the applicant in OA No.310/00271/2017:

Annexure A1: Copy of the proceedings dated 29.9.14 issued by the 1st respondent.

Annexure A2: Copy of letter dated 23.2.2015 issued by the 1st respondent.

Annexure A3: Copy of letter dated 27.2.15 issued by the 3rd respondent.

Annexure A4: Copy of proceedings dated 10.4.15 issued by the 1st respondent.

Annexure A5: Copy of representation submitted by the applicant to the 1st respondent a/w clean copy dated 20.4.15.

Annexure A6: Copy of representation to the 1st respondent dated 27.5.15.

Annexure A7: Copy of representation dated 25.6.15 to the 2nd respondent.

Annexure A8: Copy of representation dated 05.8.15 to the 2nd respondent.

Annexure A9: Copy of order passed in OA 1660/15 by CAT, Chennai.

Annexure A10: Copy of letter dated 15.2.16 issued by the 1st respondent.

Annexure A11: Copy of representation dated 15.3.16 to the 2nd respondent.

Annexures with reply statement:

Annexure R1: DOT Order No.8-9/2014-Vig.II dated 29.9.14.

Annexure R2: DOT letter No.8-8/2015-Vig-II dated 03.7.15

Annexure R3: DOT Order No.37-51/2015-SEA(L) dated 15.2.16.