

WP(C) 996/2016

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

HON'BLE MR. JUSTICE MANOJIT BHUYAN

Heard Mr. SC Keyal, the learned Asstt. Solicitor General of India who appears for the petitioners. The respondent is represented by Mr. S. Dutta, the learned counsel.

2. The challenge in this Writ Petition is to the order dated 18.9.2015 (Annexure-B) in the O.A.No.040/00322/2015, whereby the learned Central Administrative Tribunal (CAT) ordered for release of the monthly pension and gratuity to the respondent (applicant), who superannuated on 28.2.2015, as the Director of Postal Service at Itanagar.

3. It appears that the charge sheet dated 20.2.2015 was served upon the postal employee just 4 days ahead of his retirement and that is why the applicant approached the CAT, for release of his pensionary dues.

4. Mr. SC Keyal, the learned counsel submits that the application was disposed of on the first day itself with direction for release of the monthly pension and gratuity but in the process, the Rule 69 of the CCS (Pension) Rules which provides for provisional pension in the event of pendency of disciplinary proceeding for a retired employee, could not be brought to the notice of the learned Tribunal.

5. On the other hand, Mr. S. Dutta, the learned counsel for the respondent applicant submits that this was an innocuous order passed by the learned Tribunal and therefore formal notice to the employer was unnecessary.

6. However we find that the substantive relief was granted to the applicant by the learned Tribunal without affording any opportunity to the employer to project their case with reference to the applicable provisions of the CCS (Pension) Rules. In such circumstances, we are of the view that this matter should be remanded back to the learned Tribunal for fresh consideration of the O.A.No.040/00322/2015, after permitting the employer to file their response in the matter.

7. In view of above, the impugned order dated 18.9.2015 (Annexure-B) is ordered to be re-considered by the learned Tribunal after affording opportunity to the employer to file their response in the matter. Thereafter fresh order on merit should be passed on the application, filed by the retired officer.

8. With the above order, the case is disposed of. No cost.