

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.13091-CAT of 2018

Reserved on : January 23, 2019

Date of decision: March 07, 2019

Union of India through General Manager,
Northern Railways,

...Petitioner

Versus

Krishna Manjhi and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Puneet Jindal, Senior Advocate with
Mr.Amandeep Singh Meho, Advocate
for the petitioner.

Mr.A.K.Sharma, Advocate
for respondent No.1.

HARINDER SINGH SIDHU, J.

The Union of India through General Manager, Northern Railways has filed the present writ petition impugning the order dated 16.3.2017 of the Central Administrative Tribunal, Chandigarh Bench (for short 'the Tribunal'), whereby, O.A. No.061/00061/2015 filed by respondent No.1 has been partly allowed and for quashing the order dated 18.12.2017 of the Tribunal whereby its Review Application has been dismissed.

Respondent No.1 had filed the Original Application challenging the action of the petitioners herein in withholding of his retiral benefits and sought directions for their release with interest. Respondent No.1 had joined the Ferozepur Division of Northern Railways as Gateman

in May, 1976. On attaining the age of superannuation, he retired on 31.7.2013. Prior to his retirement, he was holding the post of Senior Passenger Guard at Ludhiana Railway Station. At the time of his retirement all the retiral benefits namely DCRG, Commutation, Leave Encashment, Packing Allowances, etc. were withheld. The reason for the same was disclosed in the communication dated 25.7.2013 as 'SF-5 pending in Vigilance case'.

Respondent No.1 belongs to Scheduled Tribe category. The Scheduled Tribe certificate issued in his favour had become subject matter of a Vigilance enquiry. He was served with charge-sheet, SF-5 bearing No.Optg./Vig/65/98 dated 17.2.1998. A regular enquiry was instituted against him. The Enquiry Officer in his report dated 20.10.1999 held that the charges against him were not proved. Thereafter, respondent No.1 made a representation to the Disciplinary Authority that since the charges against him had not been proved, he be exonerated of the charges. There was no communication from the Department regarding the charge-sheet leading respondent No.1 to conclude that the vigilance case had come to an end. Just prior to his retirement, he was informed of the pendency of the Vigilance case through the communication dated 25.7.2013 and conveyed that his retiral benefits were being withheld on that account. He was paid only provisional pension. He filed the Original Application praying for the release of his retiral benefits alongwith interest.

The case of the petitioners herein was that on the recommendation of the Headquarter (Vigilance) respondent No.1 was served with a major penalty charge-sheet (SF-5) for submitting false caste

certificate at the time of his appointment. As the Enquiry Officer in his report had held that charges against him were not proved, a proposal was sent to the Headquarter (Vigilance) for exoneration of respondent No.1 vide office letter dated 27.9.2001. In response to that letter, Headquarter (Vigilance) vide letter dated 20.6.2002 informed that proposal was pending with CBI for approval and further action would be intimated after receipt of reply from the CBI. Later Headquarter office vide letter dated 4.1.2016 intimated that the service record and other particulars of 13 employees including respondent No.1 had been sent to CBI office vide letter dated 19.3.2010, but no reply was received. The CBI vide letter dated 25.4.2014 informed that investigation in the case which was registered by CBI, ACB Chandigarh against 13 persons including respondent No. 1 was still going on. Hence retiral benefits could not be released.

The Learned Tribunal noticed that the disciplinary proceedings were initiated against respondent No.1 in 1998, in which the enquiry report was submitted in 1999 exonerating respondent No.1. The CBI initially filed charge sheet in the Court of Special Judicial Magistrate CBI, Patiala in July, 2013 just before the retirement of respondent No.1. This charge-sheet was returned by the Court directing further investigation. Thereafter charge-sheet was again filed in 2016. Thereby the Tribunal concluded that no disciplinary proceedings were pending against respondent No.1 when he retired on 31.7.2013.

It also noticed that it was clear from the order dated 29.03.2016 recorded by the Special Judge CBI Patiala in Krishan Manjhi Vs. CBI that closure reports in the matter had been filed twice on behalf of CBI. The

Tribunal concluded that the matter had been prolonged far too long and it is uncertain when it would reach conclusion. Respondent No. 1 who had served the railways from May 1976 to July 2013 could not be kept waiting for his retiral benefits. There was no justification in withholding his retiral benefits.

The Tribunal directed the release of his DCRG and Leave encashment within a period of one month. No order was passed regarding release of commuted amount of pension as respondent No.1 was getting provisional pension, which he would continue to get till the decision of the CBI Court. Interest on delayed payment of DCRG and Leave Encashment was disallowed to be claimed by respondent No.1 after the decision of the CBI Court, if it goes in his favour.

Ld. Counsel for the petitioners has not been able to point out any infirmity in the order of the Tribunal which appears justified in the facts and circumstances of the case.

Accordingly, the petition is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

March 07, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No