Ct. No.4 D/L 01.07.2025
(Naba) 17

W.P.C.T. 261 of 2023

Union of India & Ors.
Vs.
Debashis Dutta

Mr. Sukumar Bhattacharyya,
Ms. Sarda Sha,
Ms. Puja Sonkar
...for the Petitioners

Mr. Ujjal Ray,
Mr. Arpa Chakraborty,
Sk. Abdur Rahim,
Ms. Manishikha Mondal
...for the Respondent

1. Heard the learned counsel for the petitioners as well as the learned counsel representing the respondent/applicant.

2. The applicant was proceeded against in a duly constituted departmental proceeding. He attained the age of superannuation on 30.06.2016. About 03 (three) years thereafter a speaking order has been passed in the proceedings. The speaking order takes note of the fact that in spite of best efforts the proceedings could not be concluded and therefore, the order which has been passed by the disciplinary authority reads :

> *"...From the enquiry it is seen that Sri Debashis Dutta, C.O. had allowed Sri A. K. Tiwary, Porter to act un-authorizedly on the job of cabin master. Sri G. S. Tiwary (which was admitted by A. K. Tiwary during enquiry) which compromises safety and thus C.O. failed to supervise/ act properly being a responsible supervisor in the Railway. So, the Charge No.*

02 (two) – out of five has been established and I am of the opinion that he is found guilty.

However, as C.O. Sri Debashis Dutta retired on 30.06.2016 and his retiral dues/ settlement dues are still pending, it is decided on humanitarian ground that the charges so imposed be dropped."

3. This order was put to challenge by the petitioners before the Central Administrative Tribunal, Kolkata Bench ('C.A.T.' for short) in O.A. No. 1373 of 2022. The petitioner before the C.A.T. also prayed for grant of interest on the delayed payment of gratuity. In order to ascertain responsibility for the delay, the C.A.T. directed the authorities to pass a reasoned and speaking order on this issue, which came to be passed by the authority on 19.07.2022. The speaking order holds the petitioners liable for delay in the proceedings. This order was also assailed by the petitioners in the O.A. The O.A. has been disposed of by the C.A.T. in the following terms:

"9. This is indeed an unusual order. In a disciplinary proceeding charges against the charged officer are dropped only if the same are not established during the course of inquiry or if the disciplinary authority is of the view that there was no basis for proceeding with the inquiry. In the instant case, the charges were dropped "on humanitarian ground since the C.O. had retired on 30.06.2016 and his

retirement dues were still pending even one of the charge was established."

Moreover, if the disciplinary authority felt that one charge against the employee has been established, during the course of the inquiry, he should not have dropped the said charge against the employee.

However, since the Disciplinary Authority has dropped the charges against the applicant, vide order dated 19.7.2022, the applicant is entitled to all his retirement dues (including Gratuity) on the day of his retirement. He is, therefore, allowed interest on the delayed payment of all his retirement dues (including Gratuity) for the period w.e.f. the date of his retirement to the date of actual payment of the retiral dues at the rate of interest applicable to deposits under the General Provident Fund.

10. With these directions, the O.A. is disposed of. There shall be no order as to costs."

4. This order of the C.A.T. is assailed by the Union of India in the present proceedings.

5. The learned counsel appearing for the petitioners submits that from a bare perusal of the order passed by the disciplinary authority on 23.05.2019, it is more than obvious that the issue has been given a quietus taking note of the inordinate delay in concluding the trial, but delay was found attributable to the applicant. In this connection he relies on a decision of the Hon'ble

Apex Court in the case of ***A. Selvaraj Vs. C.B.M. College*** reported in ***(2022) 4 SCC 627.***

6. Same finding was reiterated by the authorities in the reasoned and speaking order dated 09.07.2022 passed pursuant to the C.A.T.'s interim direction. Since the petitioners is liable for delay, he would not be entitled to any interest on the gratuity which remained withheld during pendency of the disciplinary proceedings. Only if the delay was on account of any fault of the applicant, he would be in a position to claim any interest. The facts being different in the present case wherein the delay was attributable to the applicant, the claim for interest is unsustainable.

7. The learned counsel representing the respondents on the other hand relies on a decision of the Hon'ble Apex Court in the case of ***S.K. Dua Vs. State of Haryana & Anr.*** reported in ***(2008) 3 SCC 44***. He submits that the authorities have by a conscious decision, manifest from the order passed by the disciplinary authority dropped the charges imposed against the applicant, for which the proceedings were being conducted. The considered decision of the authorities dated 23.05.2019 does not leave any scope for the authorities to now contend otherwise, and visit the petitioners with any penal consequences in

respect of the charges for which the enquiry was being conducted, enquiry having been dropped and matter being given a quietus by conscious decision of the authorities.

8. We find force in such submission of the learned counsel for the applicant. The decision of the disciplinary authority is specific to the effect that on humanitarian grounds the charges imposed against the applicant have been dropped taking into consideration the fact that his retiral due settlement have remained pending. Such decision having been taken on humanitarian grounds, it does not lie in the mouth of the respondent now to contend that the petitioner should be visited with any consequences on account of the proceedings. The decision of the authorities being the decision of a model employer, in a welfare state, based on humanitarian grounds, are required to be viewed in the humanitarian context in which the decision has been taken which is manifest from the order of the disciplinary authority extracted above.

9. We, therefore, find no reason to interfere with the C.A.T.'s decision contained in the order dated 18.08.2023 in O.A. No. 01373 of 2022 to grant the petitioners the interest on the delayed payment of all his retiral dues (including gratuity).

10. The Writ Petition being W.P.C.T. No. 261 of 2023 is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)