

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH :: AT HYDERABAD**

**OA/020/00815/2021**

**Reserved on: 02.12.2022  
Pronounced on: 23.12.2022**

**Hon'ble Mr. Sudhi Ranjan Mishra, Judicial Member**



Smt. Zahidunnisa, Wife of Kalamullah,  
Aged about 61 years, Retired Assistant Postmaster (Accounts),  
Nandyal HO and now resident of  
H. No. 46/89-1A, Upstair AR Residency,  
Bhudwarpeta, Kurnool – 518001.

...Applicant

(By Advocate: Mr. K. Venkateswara Rao)

Vs.

1. The Superintendent of Post Office,  
Nandyal Postal Division at Nandyal,  
Kurnool District.
2. The Superintendent of Post Offices,  
Kurnool Division at Kurnool.
3. The Chief Postmaster General,  
AP Circle, Vijayawada.
4. The Director of Postal Services,  
O/o. Post Master General,  
Kurnool Region, Kurnool.
5. The Postmaster General, Kurnool Region, Kurnool.
6. The General Manager (Finance),  
AP Circle, CPMG Building, Vijayawada.
7. Union of India, Rep. by the Secretary to  
The Ministry of Communications,  
Department of Posts, Dak Sadan,  
New Delhi – 110 001.

....Respondents

(By Advocate: Mrs. K. Rajitha, Sr. PC for CG)

**ORDER**  
**(As per Mr. Sudhi Ranjan Mishra, Judicial Member)**

The applicant filed the OA seeking the following relief:

*“..to call for the records relating to Lr. No. GM(F) PAO/PEN-AP/Pro-PPO. No.96/SZN dated 03.11.2021 issued by the General Manager (Finance), AP Circle, CPMG Building, Vijayawada granting provisional pension instead of regular pension, gratuity, leave encashment, commutation and other retiral benefits is illegal and direct the respondents to release regular pension, leave encashment, gratuity, commutation and other retiral benefits from the date of entitlement with interest @ 9% from 01.04.2021 with all consequential benefits....”*



2. The case of the applicant is that she was initially appointed as Postal Assistant on 10.07.1982 and was promoted as HSG-II on 29.09.2018. While working so, she was issued a charge memo dt. 20.04.2019 under Rule 14 of CCS (CCA) Rules, 1965; inquiry was commenced on 14.06.2019 and completed on 09.11.2020. The Inquiry Officer submitted report on 24.12.2020. The applicant was placed under suspension during the period from 25.01.2019 to 08.10.2020. The 4<sup>th</sup> respondent issued Memo dt. 29.03.2021 imposing penalty of compulsory retirement on the applicant. Accordingly, she was compulsorily retired on 01.04.2021. She submitted pension papers for grant of regular pension and other retiral benefits. However, the respondents sanctioned provisional pension only vide letter dt. 03.11.2021 and other retiral benefits have not been sanctioned.

3. The respondents have filed reply statement, wherefrom, it can be seen that while processing pension case of the applicant, the 6<sup>th</sup> respondent was informed by the 1<sup>st</sup> respondent that FIR No. 213/2019 was registered against the applicant on 29.07.2019 for an alleged dishonest

misappropriation of public money to the tune of Rs.1,79,676/- and preparation of OTA Bills without the signature of the Postmaster to the tune of Rs.3,71,078/-. Accordingly, the 6<sup>th</sup> respondent i.e. General Manager (Finance), AP Circle issued orders to the 1<sup>st</sup> respondent to submit the proposal for sanction of provisional pension to the applicant since an FIR was filed against the applicant, but however, charge sheet is yet to be filed by the Police in the court of law. The only reason for not paying the retirement benefits to the applicant other than provisional pension is the case vide FIR 213/2019 at Kurnool II Town Police Station. The respondents cited Rule 69 of CCS (Pension) Rules, 1972 in support of their stance.



4. The issue that arises for adjudication is whether the action of the respondents in denying retirement benefits to the applicant citing the pending criminal case is sustainable in law.

5. Heard learned counsel for the applicant and the learned Senior Panel Counsel for Central Government and perused the pleadings on record.

6. It is contended by the respondents that judicial proceedings initiated against the applicant vide FIR 213/2019 are not yet concluded and therefore, as per Rule 69 of CCS (Pension) Rules, 1972, provisional pension was paid to the applicant. Whereas, the applicant contended that judicial proceedings are said to have commenced only when the competent Magistrate frames charges after taking cognizance of report of the Police officer. The applicant cited the judgment of the Hon'ble Supreme Court in

***Union of India v. K.V. Janaki Raman, AIR 1991 SC 2010*** to assert that department/ criminal proceedings shall be deemed to have commenced when a charge memo in departmental proceedings or a charge sheet in a criminal prosecution are initiated against the employee. Applicant submits that Police Officer has not even forwarded his investigation report to the competent court and therefore, the question of taking cognizance of report by the court does not arise. Hence, the action of the respondents in withholding of pensionary benefits to the applicant is irregular and violative of Rule 69(1)(B) & (C) & Rule 9(6)b(i) of CCS (Pension) Rules, 1972.



7. Learned counsel appearing for the respondents furnished instructions dt. 29.11.2022 received by her from the respondents stating that draft charges were sent to the court and number is yet to be assigned by the Court. This makes it clear that, competent court is yet to take cognizance of the case pending against the applicant. Learned counsel for the applicant submitted that until and unless the competent court takes cognizance of the case, judicial proceedings cannot be said to have commenced and therefore, the applicant cannot be denied her retiral benefits. He cited the judgment of the Hon'ble Jammu & Kashmir High Court (Srinagar Bench) in a Letters Patent Appeal vide LPA No. 220/2019 dt. 11.12.2020 in support of his claim and drawn the attention of this Tribunal to the relevant observations, which are as under:

*“... “Judicial proceedings” can only be launched before a court which is capable of passing a definitive judgment on the issues before it. Viewed thus, we are not inclined to concur with the view of the Writ Court that the appellant was not entitled to payment of post retiral benefits except the provisional pension in view of pendency of a criminal case i.e. FIR No. 25/2014. It is not disputed before us that*

*on the date of the appellant retired on superannuation, FIR was still under investigation and challan in the competent court of law had not been presented. As a matter of fact, the final report/ challan in the case of appellant was presented only on 27<sup>th</sup> of October, 2020 i.e. during the pendency of this appeal and therefore, by no stretch of reasoning, it can be said that on the date of retirement of the appellant, any judicial proceedings were either instituted or pending against the appellant....”*



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*“It may be pertinent to note that the Supreme Court in the case of **Union of India vs. K.V. Jankiraman, AIR 1991 SC 2010**, has held that the criminal proceedings shall be deemed to have commenced from the date criminal court of law frames charges against the accused delinquent..”*

8. The only reason for which the applicant has not been sanctioned retirement benefits is that pendency of FIR against the applicant. But, as per the above proposition of law, which is squarely applicable to the instant case on hand, no judicial proceedings can be said to have commenced against the applicant on the date of her compulsory retirement. Consequently, the applicant is entitled to all admissible retiral benefits including regular pension from the date of her compulsory retirement.

9. In view of the above, the OA is allowed directing the respondents to consider grant of full pension and all other retiral benefits to the applicant as per rules and law on the subject, within a period of three months from the date of receipt of copy of this order. There shall be no order as to costs.

**(SUDHI RANJAN MISHRA)**  
**JUDICIAL MEMBER**

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