

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2977/2001

New Delhi, this the 2nd day of March, 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Hari Giri,
S/o Kishan Giri,
R/o E-6, Sector, 22,
Gautam Budh Nagar,
NOIDA, UP.

...Applicant.

(By Advocate Shri P.T.S. Murthy)

V E R S U S

1. Union of India
Through Secretary,
To the Govt. of India,
Ministry of Labour,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-01.
2. The Director General of
Employment and Training,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-01.
3. The Director,
Central Institute for Research
and Training in Employment,
Pusa, New Delhi-12.

...Respondents.

(By Advocate Shri Rajeev Bansal, proxy for
Shri B.K. Aggarwal

O R D E R

By Hon'ble Shri Govindan S. Tampi

Applicant in this OA seeks the payment of pension & other retiral benefits which have been held back by the respondents.

2. Heard Sh. P.T.S. Murthy, learned counsel for the applicant and Shri Rajeev Bansal, learned proxy counsel on behalf of Shri B.K. Aggarwal, learned counsel for the respondents.

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3. The applicant, a permanent Group 'D' peon working in the Central Institute for Research and Training in Employment (CIRTS) filed his request on 24.10.2000 for voluntary retirement, which was accepted by the Competent Authority on 09.11.2000, but to be effective from 28.02.2001. On 27.02.2001 he was told that as the nomination in his service records of his first wife, Hemlata had not been changed to that of his present wife, Godambari and he had not produced the Court decree about his divorce from the first wife, his request for voluntary retirement could not be agreed to. He produced the necessary evidence by way of C.G.H.S. card on 08.03.2001. A few months whereafter on 23.07.2001 he was relieved on his retirement. Thus, his retirement having come into effect, benefits therein like pension, GPF, leave encashment and C.G.E.I.S. have not been released. In fact in respect of GPF, leave & CGEIS, sanctions have been recorded but the amounts ^{never} held back. After having accepted this notice for voluntary retirement & relieved him from service, holding on to his retirement benefits was illegal and improper. Refusal or withholding of the pension or other retiral benefits had no basis more so as those amounts belong to him and have been earned by him over the years in service and merely on account of a dispute between himself & his first wife, who is since not traceable, was totally arbitrary according to the applicants learned counsel Sh. P.T.S. Murthy.

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4. In the reply on behalf of the respondents, reiterated by Shri Rajeev Bansal, during the oral submissions, it is stated that while processing the

papers for grant of the applicant's retiral benefits, it appeared that the name of the wife shown was different from the one which he had given earlier. As this confusion had to be got cleared, his request for voluntary retirement was withheld. Subsequently, the respondents took a lenient view and permitted him to retire on 23.07.2001, though disciplinary proceedings could have been initiated against him for contracting a second marriage without the dissolution of the first one. The fresh pension papers filed by the applicant also did not include the proof of divorce/dissolution the first marriage. His dues of GPF, CGEIS and leave encashment, had, however, been released on 04.10.2001 & 19.10.2001, leaving only the pension payment which has been held back. According to the respondents as the applicant is yet to provide evidence of his divorce from the first wife and contracting a second marriage, his pension had been held back and this had been correctly ^{done} ~~and~~. The applicant's averment during the oral submissions that his wife's whereabouts were not known and that the details of the second wife and the children are known to all, are indicated as after thoughts by the respondents. The OA in the circumstances deserved to be dismissed, urges Shri Bansal.

5. I have carefully deliberated upon the rival contentions. In this case, it is found that the pension of the applicant have been held back on account of there being difference in the names of the wife originally shown in service records and the one which has been indicated in the pension papers. The applicant states that his first wife Hemalata had

left him long back and her whereabouts were not known, and that he had been married to his present wife Godambari since long in whom he has already three children. He had duly notified the respondents about his present wife and the children which had led to their names being included in the CGHS card. Respondents on the other hand, state that he had not produced any evidence of his divorce from his first wife and his marriage to his second wife, though they do not deny the issuance of the CGHS card in April 1993 in the name of the applicant with his second wife & three children born out of that wedlock. There is also no evidence of their being any complaint or representation from the first wife of the applicant whom applicant describes as being no more, though the respondents state that the said individual could be considered as dead only after 30 yrs. of her disappearance. In the circumstances of the case, this plea of the respondents cannot be endorsed. Having accepted the notice of voluntary retirement of the applicant ^{and} having relieved him from the post on retirement, the respondents could not have held back the pension on the ground that the fact of dissolution of his first marriage and contracting of his second marriage was not proved. As the respondents themselves indicate that they had not taken any action against the applicant for alleged violate of CCS (Conduct) Rules, for contracting a second marriage, when the first wife was alive, they are found to have acquiesced in his second marriage, more so by including the names of his second wife and children ^{by her} in the CGHS card. That being the case holding back the pension of the applicant is a measure which does not merit endorsement in law. Respondent's action are self-contradictory and cannot be accepted. It would be in the interest of justice if the acceptance of the

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voluntary retirement is followed by the logical corollary of disbursement of the dues. The respondents have already granted GPF, leave encashment & the amount due under CGEIS. Payment of pension has to follow suit. (12)

6. In the above view of the matter, the OA succeeds and is accordingly, allowed. The respondents are directed to release to the applicant the amount of pension which has been held back, within two months of receipt of date of this order. No costs.

(GOVINDAM S. TAMPI)
MEMBER (A)