

Central Administrative Tribunal, Principal Bench

Original Application No.2004 of 1998

New Delhi, this the 2nd day of December, 1999

Hon'ble Mr.R.K.Ahooja, Member (Admnv)

A.G.Sharma son of Shri Gajadhar, Retired as Licencing Assistant from the Office of the Joint Director General of Foreign Trade (Central Licencing Area), Ministry of Commerce, New Delhi and R/o A-273-A, Gali Chet Ram, Maujpur, Delhi. - Applicant

(By Advocate - Shri B.Krishan)

Versus

1. Union of India through the Joint Director General of Foreign Trade, 6-7, Asaf Ali Road, New Delhi-2.
2. The Deputy Director General of Foreign Trade, O/o The Dy. Director General of Foreign Trade, Panipat (Haryana) - Respondents

(By Advocate Mrs. P.K.Gupta)

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The applicant, who was working as Licensing Assistant in the Office of the Deputy Director General of Foreign Trade, Panipat (Haryana), was taken into custody on 20.9.1994 on cases under various substantive provisions of Prevention of Corruption Act and the Indian Penal Code having been registered against him. Vide order dated 23.9.1994 the applicant was placed under suspension under Rule 10(2) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The applicant thereafter filed an OA No.2623 of 1996 and the Tribunal by its order dated 14.8.1997 ordered revocation of suspension as it had been continued beyond two years without passing any speaking order. The applicant was thereafter reinstated in service and ultimately retired on attaining the age of superannuation on 31.12.1997.

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2. The applicant is now before this Tribunal seeking a direction to the respondents to pay him all his retirement benefits as he has not so far been paid his pension and gratuity nor his period of suspension has been regularised as on duty. The case of the applicant is that despite the fact that he was retired more than two years ago and even though no charge sheet has been filed against him, the respondents have withheld his retirement benefits.

3. The respondents in their counter have stated that the applicant had been taken into custody and the investigation on certain serious charges is continued against him. The charge sheet has already been filed in the competent court before the date of retirement of the applicant and hence the applicant cannot be allowed to draw his pension and gratuity in terms of Sub-rule (6) of FR 54-B as well as Rule 69 (c) of Central Civil Services (Pension) Rules, 1972 (hereinafter referred to as 'the Pension Rules'). They also state that the decision regarding regularisation of his period of suspension would be taken after the out come of the criminal case filed against the applicant is known.

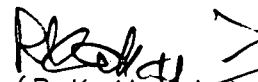
4. I have heard the counsel. The criminal charges against the applicant are such that if proved would normally ^{have} lead to the imposition of penalty of dismissal from service if the applicant had not already been retired. After retirement such a conviction would come within the meaning of 'grave misconduct' as per Rule 9 of the Pension Rules. Therefore, the right of

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the respondents to withhold the pension and gratuity of the applicant cannot be questioned. The applicant would, however, be entitled to provisional pension in terms of Rule 69 of the Pension Rules. According to the respondents provisional pension has already been allowed since January, 1998.

5. For the aforesaid reasons, I find the present OA devoid of merit. It is accordingly dismissed. No costs.


(R.K. Ahooja)
Member (Admnv)

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