

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 581 of 1998

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DATE OF DECISION : 4.7.2000

H. S. Panwar

....Petitioner

Shri B.S. Charya

....Advocate for the
Petitioner(s)

VERSUS

Delhi Fire Service & ors.

....Respondents

Shri Rajinder Pandita

....Advocate for the
Respondents.

CORAM

The Hon'ble Mr. Justice V. Rajagopala Reddy, Vice Chairman (J)
The Hon'ble ~~XXXX~~ Mrs Shanta Shastri, Member (A)

1. To be referred to the Reporter or not? YES ✓
2. Whether it needs to be circulated to other
Benches of the Tribunal? No ✓

(V. Rajagopala Reddy)
VC (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.581 of 1998

New Delhi, this 4th day of July, 2000

Hon'ble Shri V.Rajagopala Reddy, Vice Chairman(J)
Hon'ble Smt. Shanta Shastry, Member(A)

H.S. Panwar
S/o Shri Khem Chand
R/o 265-A, Vill. Shahpur Jat
New Delhi-110049.

... Applicant

(By Advocate: Shri B.S. Charya)

versus

1. Delhi Fire Service
Headquarter Connaught Circus
New Delhi
through its Chief Fire Officer
2. Government of National Capital
Territory of Delhi
5 Sham Nath Marg, Delhi
through its Chief Secretary
3. The Secretary(Services)
Government of National Capital
Territory of Delhi
5 Sham Nath Marg
Delhi.

... Respondents

((By Advocate: Shri Rajinder Pandita)

ORDER(Oral)

By Reddy, J.

While the applicant was working as Divisional Officer in Delhi Fire Service, an FIR No.432 dated 13.6.1999 was registered against him in P.S. Haus Khas Criminal Branch with regard to the fire incident of Uphar Cinema which led to the death of several persons. The applicant was placed under suspension by order dated 13.7.1997. Subsequently he was superannuated on 31.1.1997 after attaining the age of 58 years. In December 1997 the applicant had been paid provisional pension, leave encashment and provident fund but he was not paid gratuity and commutation of pension and group



insurance. The present OA is filed for a direction to the respondents for payment of the above amounts.

2. Heard the counsel for the applicant and the respondents and we have carefully considered the submissions made by them.

3. Learned counsel for the applicant submits as that the applicant had been superannuated on 31.7.1997 and as on that date no disciplinary proceedings were pending against him, he was entitled for all the benefits including gratuity, commutation of pension, group insurance etc. He also submits that his case does not fall within sub-rule 6 of Rule 9 of CCS(Pension) Rules. Learned counsel for the respondents however submits that as the applicant was placed under suspension on 29.7.1997 prior to his superannuation, as per sub-rule 6 of Rule 9 of the CCS((Pension)Rules, the departmental proceedings should be deemed to be instituted on the date of suspension. Hence the applicant is not entitled for payment of gratuity, pension etc.

4. It is not in dispute that the applicant was placed under suspension on 29.7.1997 under sub-rule 1 of Rule 10 of CCS(CCA)Rules,1965 on the ground that an FIR was registered against him for several offences under the IPC for his involvement in the fire incident of Uphar Cinema. It is also not in dispute that the applicant was superannuated on 31.7.1997. Thus it is clear that when he was superannuated he was already



placed under suspension. Under rule 9 of the Pension Rules, the President may withhold or withdraw the pension or gratuity or both if in any departmental or judicial proceedings, the pensioner was found guilty of grave misconduct or negligence during the period of service. Sub-rule 2(a) of Rule 9 provides, if the departmental proceedings were instituted when the government servant was in service, it shall be deemed to be the proceedings under this Rule and shall be continued as if they were commenced in the same manner as if the government servant had continued in service. Sub rule 6 of Rule 9, which is crucial ⁱⁿ this case, makes it manifest that departmental proceedings should be deemed to be instituted on the date when the government servant was placed under suspension. A reading of the above provisions go to show that the departmental proceedings were pending against the applicant on the date when he was superannuated. Hence the President is entitled to withhold the pension or gratuity or both. The contention that the applicant does not fall within the provision of sub-rule 6 of the Rule 9 is not sustainable.

5. Learned counsel also relies upon Rule 69 of the CSS (Pension) Rules. It ~~s~~ pertains to payment of provisional pension. Since the payment of provisional pension in the present case was paid to the applicant, we are of the view that the said rule has no application.

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6. In the circumstances, the applicant is not entitled for any relief in this case. The OA fails and accordingly dismissed.

Shanta Shastri

(Smt. Shanta Shastri)
Member(A)

dbc

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman(J)