

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

C.P. No. 23 OF 1998

in

O.A. No. 1335 OF 1997

New Delhi, dated the 26<sup>th</sup> MAY 1998  
HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

(B)

Dr. (Mrs.) S.V. Dharan,  
W/o Shri K. Vidya Dharan,  
R/o B-228, Priyadarshni Vihar,  
New Delhi. .... PETITIONER

(By Advocate: Shri A.K. Behera)

Versus

Shri P.P. Chauhan,  
Secretary,  
Ministry of Health & F.W.,  
Nirman Bhawan,  
New Delhi. .... RESPONDENT

(By Advocate: Shri Madhav Panikar)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant alleges contumacious  
disobedience of the Tribunal's order dated 11.7.97  
in O.A. No. 1335/97.

2. We have heard Shri Behera for applicant  
and Shri Panikar for respondents.

3. In so far as various retiral dues said to  
have been paid to applicant as per respondent's  
reply is concerned, Shri Behera has contended that  
applicant was entitled to interest for delayed  
payment of those sums consequent to her  
superannuation on 31.5.97. There is no direction  
in the impugned judgment dated 11.7.97 for grant  
of interest on delayed payment of retiral benefits  
and hence this cannot be made a ground for the  
comtempt petition. If applicant has any grievance

(V)

in this regard it is open to her to agitate the same separately in accordance with law if so advised.

3. Shri Behera very fairly concedes that applicant cannot press for release of gratuity at this stage consequent to the departmental inquiry initiated against her but states that applicant is entitled to release <sup>of</sup> her leave encashment, which he claims has not been released to her by respondents, owing to an incorrect interpretation of Rule 39(3) CCS (Leave) Rules. While Shri Panikar contends that the leave encashment has been withheld under the provision of Rule 39(3) CCS ((Pension) Rules to adjust money if any becoming recoverable from applicant upon conclusion of the departmental proceedings initiated against her, Shri Behera has emphasised that it is not any money, but only govt. dues which can be adjusted from the leave encashment as per provision of Rule 39(3) CCS (Pension) Rules. Emphasis has been placed by him on the wording of Rule 39(3) CCS (Pension) Rules and it has also been stressed that were all moneys adjustable from leave encashment, then mention would have been made in the relevant provision relating to withholding of gratuity itself. Shri Behera has stressed that as any recovery ordered in the future in the disciplinary proceedings by way of

penalty is not a govt. due, Rule 39(3) CCS (Pension) Rules does not permit respondents to withhold the same.

(5)

4. This dispute involves interpretation of a Rule, and applying the ratio of the Hon'ble Supreme Court's judgment in J.S. Parihar Vs. G. Duggar & Ors. JT 1996 (9) SC 608 it cannot be considered to be contumacious disobedience of the Tribunal's judgment dated 11.7.97. If respondents have not issued any order as yet regarding release of applicant's leave encashment, they should do so forthwith and if applicant is dissatisfied with the same, it will give him a fresh cause of action and it will be open to him to challenge the same through appropriate original proceedings in accordance with law if so advised.

5. Subject to what has been stated in Para 4 above the C.P. is dropped and notice to alleged contemners are discharged.

A. Vedavalli

(Dr. A. Vedavalli)  
Member (J)

S. R. Adige

(S. R. Adige)  
Vice Chairman (A)

/GK/