

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1872/97  
T.A. No.

198

DATE OF DECISION 10/02/98

R. D. Gang

Applicant (s)

(In person)

Advocate for the Applicant (s)

Versus

Union of India & others

Respondent (s)

Shri A. K. Upadhyay & others  
Shri V. K. Rao

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. R. K. AHUJA, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?

Yes

Dr.

( R. K. AHUJA )  
Member (A)

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Central Administrative Tribunal  
Principal Bench

O.A.No.1892/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 15<sup>th</sup> day of February, 1998

R.D.Garg  
r/o A-6/10, Krishi Niketan  
Paschim Vihar  
New Delhi - 110 063.

... Applicant

(In person)

Vs.

1. Union of India through  
its Secretary  
Ministry of Agriculture  
Krishi Bhawan  
New Delhi - 110 001.
  2. Indian Council of Agricultural Research(ICAR)  
through its Director General  
Krishi Bhavan  
New Delhi - 110 001.
  3. Indian Agricultural Statistics Research Institute (IASRI)  
through its Director  
Pusa, Library Avenue  
New Delhi - 110 012.
- ... Respondents

(By Shri A.K.Upadhyay proxy of Shri V.K.Rao, Advocate)

O R D E R

The applicant retired as Technical Officer from the service of IASRI, Respondent No.3 on 30.6.1996. On retirement, his pension was fixed at Rs.1705/-, one third of which was commuted for a value of Rs.66,865/-. Gratuity amounting to Rs.1,11,326/- was also to be paid to the applicant. He claims that he is also entitled to leave encashment of Rs.67,952/-. His grievance is that he has not been paid any retiral benefits whatsoever due from 1.7.1996 on the ground that he has not vacated the accommodation allotted to him by Respondent No.3. The case of the applicant is that the retiral benefits cannot be withheld on this ground and therefore he has prayed for a direction to the respondents to pay him all his dues along with 18% interest from 1.7.1996 to the actual date of payment.

or

2. The respondents, despite various opportunities given to them, did not file their reply. However, arguments were advanced on behalf of the respondents by their counsel. The applicant was heard in person.

3. As the applicant has rightly pointed out, it has already been settled as per R.Kapur Vs. Director of Inspection (Printing & Publication) Income Tax & Another, 1994(2) ATJ 679 that Pension and Gratuity cannot be withheld on the ground of unauthorized occupation of Government accommodation. It is of course open to the respondents to take appropriate action under law for the vacation of the accommodation in question and to recover damages. The applicant is thus entitled to the reliefs prayed for in respect of his pensionary benefits along with gratuity. He is also entitled to 18% interest w.e.f. 1.7.1996 to the date of actual payment on arrears of pension as well as on the amounts of DCRG. Since he will be given full pension till that date he will not be entitled to similar interest on the commuted value of pension.

4. The applicant claims that he is also entitled to leave encashment for a period of 240 days. In my view the protection which extends to pension and DCRG does not cover arrears of salary and leave encashment and other dues. It is open to the payment authority to recover licence fee on normal or damage rent rate from the salary of an employee. On the same analogy, such recovery can be effected from the amount of salary due or salary in lieu of leave not availed. Therefore it is open to the respondents to withhold the payment of leave encashment due till the vacation of the quarter and to deduct therefrom such amounts as may be due on account of licence fee levied by the respondents.

Dr

5. The OA is therefore disposed of with a direction to the respondents that they will release the arrears of pension and DCRG with interest calculated at 18% from 1.7.1996 till the date of payment. The same will be done within two months from the date of the receipt of a copy of this order.

The OA is disposed of as above. No costs.

  
(R.K. AHOOJA)  
MEMBER(A)

/rao/