

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 06/2000

New Delhi, this the 22nd day of March, 2001.

Hon'ble Shri M.P.Singh, Member(A),

Shri R.K. Mishra
S/o Late Shri A.M. Mishra
C-4H/52, Janakpuri
New Delhi.

...Applicant.

(By Advocate: Shri J.K. Bali)

Versus

1. The Secretary,
Ministry of Communication
Department of Telecom
Sanchar Bhawan
20, Ashok Road
New Delhi - 110 001.

2. The Member (Services)
Telecom Communication
Department of Telecom
Sanchar Bhawan
20, Ashok Road,
New Delhi-110 001.

...Respondents

(By Advocate: Shri Syed Mohammad Arif)

Order(Oral)

By Shri M.P. Singh, Member(A)

The applicant has filed this OA challenging order dated 2.11.1999(Annexure A-1).

2. The brief facts of the case are that the applicant was working as Assistant Director, General in the Telecom Commission and he retired on attaining on the age of superannuation on 31.10.96. While he was posted as D.E.(Maintenance) in Ghaziabad Telecom District, two criminal cases were pending before the Anti Corruption Judge, Dehradun. These pertain to alleged irregularities in purchase of certain items relating to underground cables. The applicant submitted a representation on 18.6.99 requesting the respondents that 50% of the gratuity due to him be paid to him on the terms and condition stipulated in the orders/directions of the Principal Bench of this



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Tribunal in the case of Jeet Singh Virdi Vs. Union of India & Anr. (1992) 21 ATC 620. In reply to his representation, the respondents informed him that the gratuity amount owing to him cannot be released till the conclusion of the disciplinary proceedings. Aggrieved by this, he has filed the frequent OA.

3. Respondents in their reply have stated that the decision to withhold the gratuity amount owing to the applicant until the conclusion of disciplinary proceedings has been taken not as a measure of penalty but as a basis of financial prudence keeping in view the financial irregularities in the pending disciplinary/criminal proceedings against the applicant as per advice of departmental of pension and PW pensioner welfare. As per rule 69(1)(c) no gratuity shall be paid to the government servant until the conclusion of departmental or judicial proceedings and issue of final orders thereon. In view of the aforesaid facts, the request of the applicant to release 50% gratuity amount owing to him cannot be acceded to till the conclusion of disciplinary/criminal proceedings. In view of above facts and circumstances, the application may be dismissed with cost.

4. Heard both the learned counsel for rival contesting parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant drew my attention to the judgement of the Tribunal in the case of Jeet Singh Virdi Vs UOI & Anr decided on 24.12.1991 in OA.1924/91 [1992 (21) ATC 620] in



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which it has been held that though the Rule envisages payment of provisional pension and not Gratuity, yet Gratuity cannot be withheld on the peculiar facts where the proceedings are not likely to be concluded within reasonable time and the applicant therein who had not been paid Gratuity for one-and-half years after his retirement on account of his involvement in a criminal case, was granted half of the amount on execution of Bond of Indemnity with two Sureties and the amount was adjustable/refundable depending upon the outcome of criminal proceedings. Learned counsel for the applicant also referred to another judgement of the Tribunal dated 12.10.1994 in OA.1978/92 in which a similar issue was considered by the Tribunal. On a perusal of both the judgements of the Tribunal, I am of the considered opinion that this case is squarely covered by both the judgements.

6. In view of the aforesaid facts and circumstances of the case, I dispose of the OA with a direction that the respondents shall grant the applicant 50% of the Gratuity normally payable to him subject to his executing a Bond along with two Sureties to the effect that he and his Sureties will jointly/severally refund the amount to the Government in case the final verdict in the criminal case and the disciplinary proceedings goes against him and the President decides to withhold his Gratuity and recover the amount already paid. I also make it clear that the amount of Gratuity so released would be subject to the final order passed by the President of India on the conclusion of the proceedings. This exercise shall be done within a period of three months from the date of receipt of a copy of this order.



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7. This OA is disposed of with the above directions. No order as to costs.

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(M. P. Singh)
Member(A)

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