

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.7 of 2000

New Delhi, this 23rd day of March, 2001

(2)

HON'BLE SHRI M.P.SINGH, MEMBER(A)

D.P. Srivastava
S/o Ashraf Lal Srivastava
R/o Flat No.55 Karishma Apartments
Patpar Ganj
Delhi

... Applicant

(By Advocate: Shri J.K.Bali)

versus

Union of India, through

1. The Secretary
Ministry of Communication
Department of Telecom
Sanchar Bhawan
20 Ashoka Road
New Delhi-110001

2. The Member(Services)
Telecom Commission
Department of Telecom
Sanchar Bhawan
20 Ashoka Road
New Delhi-110001

3. General Manager Telecom
Indore Telecom District
Marain Kothi
18 R.S.Bhandari Marg
Indore (M.P.) 452003

... Respondents

(By Advocate:Shri Rajinder Nischal)

ORDER(Oral)

The applicant has filed this OA challenging
the order dated 14.9.1999 (Annexure A1).

2. The brief facts of the case are that the
applicant retired as Director (Task Force) from
the office of the General Manager (Telecom),
Indore on 31.7.1997 on attaining the age of



superannuation. On his retirement, the applicant was sanctioned provisional pension, but his Death-cum-Retirement Gratuity was withheld on the ground that a criminal case as well as departmental proceedings are pending against him. Aggrieved by this, the applicant has filed this OA seeking relief by praying for direction to the respondents to pay at least one-half of the Gratuity normally payable to him within a reasonable period, subject to his executing a Bond of Indemnity with two Sureties to the effect that he would refund the amount to the government in case the final verdict of the criminal court/disciplinary proceedings goes against him.

3. The respondents have filed their reply by stating that the applicant is facing criminal prosecution in a case investigated by the C.B.I. According to them, the departmental proceedings have been initiated against the applicant under rule 14 of CCS (CCA) Rules, 1965 vide memo dated 24.4.1995. They have stated that as per Rule 69(1)(c), no Gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon. It is to enable the President to exercise the right conferred upon him under rule 9 of the CCS(Pension)Rules, 1972, for ordering recovery from pension or Gratuity



(3)

(14)

of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence.

3. Heard both the learned counsel for rival contesting parties and perused the record.

4. 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 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.1979/92 in which a similar issue was considered by the Tribunal.

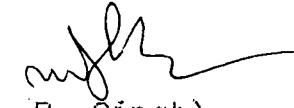


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5. On a perusal of both the judgements of the Tribunal, I am of the considered opinion that this case is squarely covered by both the judgements.

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.

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


(M. P. Singh)
Member(A)

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