

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.773/2000

Thursday, this the 17th day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

Atma Ram  
Asstt. Commissioner of Police (Retd.)  
Communication Unit,  
Rajpur Road, Old Police Lines, Delhi.  
..Applicant  
(By Advocate: Shri M.K. Bhardwaj for Shri M.L Hembrom)

Versus

1. Commissioner of Police  
Police Head Quarter  
New Delhi.
2. The Secretary (Home),  
Govt. of National Capital Territory of Delhi,  
Home (Police) Estt. Deptt.,  
5, Sham Nath Marg, Delhi.

.. Respondents

(By Advocate: Shri George Paracken)

O R D E R (ORAL)

Heard the learned counsel on either side and  
perused the material placed on record.

2. The applicant, an ACP in Delhi Police, retired on superannuation on 31.8.1996. Just before he retired, a regular departmental enquiry was ordered against him on 27.8.1996 which, according to the learned counsel for the respondents, is still going on and in respect of which a memorandum has been issued recently on 31.3.2000 granting personal hearing to the applicant. Earlier, there was some kind of doubt about the continuance as such of the departmental action. The Lt. Governor, Delhi had made certain observations which led to the belief that the departmental enquiry had been or was to be wound up. Based on the aforesaid observations of the Lt. Governor, Delhi, an ad-interim order of stay was granted by this

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Tribunal on 3.5.2000 restraining the respondents from continuing with the departmental enquiry proceedings. Later, the respondents filed a Misc. Application contesting the grant of an ad-interim order. They placed before the Tribunal another letter dated 5.1.1998 issued by the respondents containing the observations of the Lt. Governor, Delhi which went to show that the action against the applicant was to continue. The aforesaid stay order was accordingly vacated. The net position, therefore, is that departmental proceedings against the applicant are pending. The learned counsel for the respondents submits that during the pendency of the departmental proceedings at the time of retirement on superannuation, payments of all the retiral benefits cannot be made. According to him, in accordance with Rule 69 (c) of the CCS (Pension) Rules, 1965, the amount of gratuity can be validly withheld during the pendency of departmental proceedings and the same has accordingly been withheld by the respondents. All other payments have been made, according to him, to the applicant barring commuted value of pension which, according to the learned counsel, may not be payable as the pension granted to the applicant is provisional pension and not regular pension. According to his understanding, commuted value of pension can be paid only after the applicant becomes eligible for the grant of regular pension. The respondents, according to him, will be prepared to examine the rule position in this regard and if found permissible, the commuted value of pension will also be released to the applicant even though the departmental proceedings are pending.

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3. In the aforestated circumstances, I find that the ends of justice will be met in the present case by disposing of the present OA by directing the respondents to re-check the rule position with regard to the payment of commuted value of pension and make payment thereof to the applicant if the rules permit making of such payment during the pendency of departmental proceedings. The respondents are also directed to make payments of ~~any~~ <sup>other</sup> dues ~~barring~~ <sup>& ~~any~~</sup> gratuity which may not have been paid to the applicant so far. Such payments will of course be made in accordance with the rules. The respondents are directed to complete action as above in a maximum period of three months' from the date of receipt of a copy of this order. It is clarified that the applicant will be free to seek remedy in appropriate forum in relation to the relief <sup>& claimed</sup> ~~asked~~ in para 8 (iii) of the OA.

4. The OA is disposed of in the aforestated terms.  
No costs.

  
(S.A.T. Rizvi)  
Member (A)

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