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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

O.A. NO.2427/89

New Delhi, this the 1st September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri P.T. Thiruvengadam, Member (A)

Shri T.R. Bahri,
s/o late Shri Ishar Dass,
r/o D-679, Saraswati Vihar,
Delhi.

... Applicant

(Shri G.R. Matta, Advocate)

Vs.

1. Union of India
through
Secretary to the
Govt. of India
Ministry of Home Affairs,
North Block,
Central Secretariat,
New Delhi.

2. The Delhi Administration,
through Chief Secretary,
5, Sham Nath Marg,
Delhi.

3. The Commissioner of Industries,
Delhi Administration,
C.P.O. Buildings,
Kashmere Gate,
Delhi.

... Respondents

(Smt. Arvish Ahlawat, Advocate)

O R D E R (JRAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant superannuated on 30.4.87.
While serving in DANICS and was last posted as
Additional District Magistrate/Collector of Mines
under the Director of Industries, Delhi Administration.
He filed the present application in November, 1989
after making unsuccessful representations to the
respondents for settlement of the retirement benefits
and the applicant was only paid the provisional pension.

In this application the applicant has prayed for the retirement benefits including DCRG, commuted pension and sanction of regular pension w.e.f. 1.5.87.

2. On notice respondents contested this application opposing the grant of the relief prayed for by the applicant contending that there was certain matter pending before the vigilance and a letter was received from the vigilance in July, 1987 whereby departmental proceedings have to be commenced.

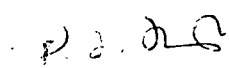
3. During the course of the hearing, the learned counsel for the applicant stated that the applicant has been granted due benefits and he placed before the Bench an order passed by the Govt. of India dropping the chargesheet served on the applicant. This order is dated 7.4.94 and has been taken on record. The respondents counsel has nothing to say regarding the order dated 7.4.94 and therefore it has to be taken for granted that the application has not to face any departmental enquiry. The learned counsel for the applicant also argued that the provisions rule 69 of the CCS (Pension) Rules 1972 do not oppose the payment of DCRG if the disciplinary enquiry is not initiated before the retirement of the person concerned.


4. The learned counsel for the applicant only prayed that on the amount of DCRG which has been withheld the interest be awarded to the applicant. The request of the applicant appears to be genuine inasmuch as the amount of DCRG has been withheld for no fault of the applicant. The respondents have not chosen to proceed with the departmental enquiry and the proceedings have been dropped. In case of Union of India Vs. Justice, S.S. Sanohalwalya (1994) 26 ATC, P. 922 a similar matter came before the Hon'ble Supreme Court for non payment of DCRG in time and the Hon'ble

Supreme Court held that withholding of DCRG amount by an administrative order amounted to depriving the claim of the petitioner and the amount which was due to him at the time of retirement. In the present case also though the reasons may be different but ultimately invoking of Rule 69 cannot debar the applicant from the payment of interest. It is also Govt. of India decision that if ultimately a person who has been under the cloud of an enquiry is finally exonerated then he shall be entitled to the interest on the DCRG amount.

5. The learned counsel also prayed for payment of interest on the commuted value of pension. This request is not tenable in view of the fact that the applicant has been given regular monthly full pension and so he was not deprived of the amount which he would have got after commutation in lumpsum. The contention of the learned counsel is that the commutation value of the pension is reduced by the advance in age of the applicant cannot be a ground for grant of interest. The applicant had not claimed the relief that for no fault of his commutation value of pension has been decreased nor any relief in that regard has been prayed for in the present O.A, that has been waived.

6. The application is disposed of with the direction to the respondents to pay interest to the applicant at the simple rate of 12% per annum from one month after the date of retirement till the amount has actually be paid to the applicant. Cost on parties. Order be complied in 3 months.


(P.T. THIRUVENGADAM)
Member (A)


(J.P. SHARMA)
Member (J)

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