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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A.474/88

Date of decision: 11.3.88

K.C.Misra

.. Applicant.

Versus

Union of India

.. Respondents.

Sh.B.B.Raval

.. Counsel for the applicant.

None for the respondents.

CORAM:

The Hon'ble Justice Sh.Ram Pal Singh, Vice Chairman(J).
The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Sh.I.P.Gupta, Member(A))

The short point involved in this case, according to the learned counsel for the applicant, is that the commutation of the pension of the applicant is held up perhaps on the plea that a chargesheet dated 31st July, 1987 was served on him by forwarding memo dated 6th August, 1987. The applicant retired from service on 31st July, 1987. The memo of chargesheet, as if he was still a serving government servant, was served on him. The proceedings were not drawn up under Pension Rules nor any sanction of the President was obtained. However, the learned counsel for the applicant mentions that according to his information another chargesheet was served later under Pension Rules.

2. Whatever the case might be the provisional pension has to be allowed since there is no provision in the Rules for non payment of provisional pension unless a specific order is passed after culmination of proceedings under Rule 9 of Pension Rules for withholding or withdrawal of Pension or ordering any recovery of pecuniary loss from pension. This order has to be given with the President's approval.

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Since no final orders have yet been passed in any disciplinary proceedings against the applicant, so far, for any recovery or deduction from pension withholding of commutation of pension is not regularized and is against the rules. We, therefore, direct that the commutation of pension on the basis of the maximum pension which would have been admissible to the applicant, on the basis of qualifying service upto the date of retirement should be released to him within a period of three months from the date of receipt of a copy of this order.

3. The learned counsel for the applicant was not confident whether 50% of the leave encashment still remains unpaid. If the leave encashment has not been paid fully the balance, whatever may be due, should be paid to the applicant within the said period with an interest of 12% p.a.

4. With this direction the case is disposed of with no order as to costs.

I.P.Gupta
(I.P.GUPTA)

MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)

VICE CHAIRMAN(J)