

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A./62/2005/2020 (SWP No. 711 of 2009)



This the 19th day of November, 2020

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

1. Hamidullah Bhat (Trali), Son of Ali Muhammad R/o Rajbagh Srinagar Kashmir, Aged 69 years.

.....Applicant

(Advocate: Ms. Rehana Fatima brief holder of Mr. Z A Qureshi)

Versus

1. State of Jammu and Kashmir through Commissioner/Secretary to Government Public Works Department, Civil Secretariat, Jammu/Srinagar.
2. Secretary to Government Irrigation Flood Control And Public Health Engineering Department Civil Secretariat Jammu/Srinagar.
3. Director Design Directorate Jammu and Kashmir, Srinagar.
4. Drawing and Disbursing Officer, Design Directorate Srinagar.

.....Respondents

(Advocate:- Mr. Amit Gupta, Additional Advocate General for Mr. Sudesh Magotra, Deputy Advocate General)

ORDER
[O R A L]

Justice L. Narasimha Reddy, Chairman:

The applicant was working as Executive Engineer with Public Works Department (Hydraulic Wing) in Jammu and Kashmir. It appears that the proceedings were initiated against him by alleging certain acts of misconduct. Thereafter, he was issued an order of compulsory retirement on 24.09.1997. He filed SWP No. 711 of 2009 before the Hon'ble High Court of Jammu & Kashmir, claiming various reliefs such as payment of full salary for the period during which he was under suspension, three months notice pay and other pensionary benefits. The Hon'ble High Court passed an interim order directing release of certain benefits. It is brought to our notice that the contempt proceedings which were also initiated and the respondents in turn filed a compliance affidavit stating that the notice salary was paid but the pensionary benefits could not be released on account of the pendency of the criminal case.

2. SWP No. 711 of 2009 has since been transferred to this Tribunal in view of re-organization of State of Jammu and Kashmir and re-numbered as TA No. 62/2005/2020.

3. We have heard Ms. Rehana Fatima for Mr. Z A Qureshi, learned counsel for the applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents.

4. The applicant was retired on compulsory basis, way back in the year 1997. He did not challenge the order of compulsory retirement. His

grievance was only as regards of non-payment of certain amounts. In compliance of the order passed by the Hon'ble High Court, the respondents have released the amounts such as three months' notice pay.

5. In their objections, the respondents stated that the pension papers of the applicant were not processed on account of the pendency of criminal case. That hardly constitutes any basis. Even where the criminal or disciplinary proceedings are pending, the respondents are under obligation to pay the provisional pension. The remaining benefits can be extended on conclusion of those proceedings, depending upon the outcome.

6. We, therefore, dispose of the T.A. directing the respondents to sanction and release the provisional pension to the applicant within two months from the date of receipt of certified copy of this order, if not already released. The payment of other benefits would be depended upon the outcome of the criminal case.

(A.K. BISHNOI)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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