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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

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Regn.No. OA-560/88  
CCP-155/88

Date of decision 16-02-1989.

Shri Raj Kumar Suri .....Petitioner

Vs.

Union of India & Others .....Respondents

For the petitioner .....Shri G.D. Bhandari,  
Advocate

For the respondents .....Shri S.N. Sikka,  
Advocate

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. P. SRINIVASAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporter or not? *No*

JUDGMENT(ORAL)

(The judgment of the Bench delivered by Hon'ble  
Shri P. Srinivasan, Administrative Member)

*91 Petition*

By this Contempt of Court Proceedings, the applicant prays that the respondents in Application No.OA-560/88 be punished for contempt of this Tribunal as having wilfully disobeyed the interim order passed by this Tribunal on 25.4.1988.

2. Shri G.D. Bhandari, learned counsel for the applicant contended strongly that the respondents had flouted the

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orders of this Tribunal wilfully and deserve punishment. In the interim order passed on 25.4.88, this Tribunal had directed that "that the applicant should be sanctioned provisionally commutation of pension as permissible under the rules with the condition that recovery, if any, as a result of the outcome of this application will be made from him in case the commutation is allowed." The respondents had issued a Pension Payment Authority letter to the Punjab National Bank dated 12.11.1987. According to that authority, the applicant had been sanctioned a pension of Rs. 1,040/- (both parties say it should have been Rs. 1,393/-). Having thus sanctioned final pension to the applicant, the respondents should have allowed commutation of pension as directed by this Tribunal. The respondents had however taken the stand that in view of the Disciplinary Proceedings initiated when the applicant was still in service and continued after the date of his superannuation, he could not be sanctioned final pension but only provisional pension and he could not be allowed to commute provisional pension under Rule 316 of the Railway Pension Rules. Shri Bhandari submitted that when this Tribunal had passed an order directing commutation of pension, the respondents should not have refused to do so and by doing so they had committed contempt of this Tribunal.

3. Shri Sikka, learned counsel for the respondents submitted that the direction of this Tribunal was to grant commutation of pension in accordance with the rules. The respondents

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had, therefore, to grant commutation only if the rules permitted it. When Disciplinary Proceedings are initiated against an official while in service and are continued after his superannuation, he is not eligible for final pension, nor for other benefits like commutation of pension, gratuity, etc., under the rules governing the same. It was a mistake that in the Pension Payment Authority issued to the Punjab National Bank the pension fixed was not described as provisional pension, but since the applicant was facing a Departmental Enquiry, he could not have been sanctioned final pension till the enquiry was completed. In view of this, the respondents had rightly refused the commutation of pension to the applicant. This did not constitute disobedience of the order of this Tribunal as this Tribunal itself had specifically directed that commutation should be allowed only in accordance with the rules.

4. We have considered the matter carefully. There is no doubt that the Disciplinary Proceedings had been initiated against the applicant even before his retirement and had been continued thereafter and are still pending. In this context, we have to accept the contention of Shri Sikka that what was sanctioned to the applicant as pension in the Pension Payment Authority dated 12.11.1987 was only provisional. We are satisfied that the respondents acted under the bonafide impression that the rules do not permit commutation of provisional pension and we cannot

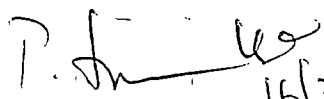
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overlook the fact that this Tribunal itself directed commutation of pension "as permissible under the rules." In view of this, we do not see any wilful disobedience by the respondents of the order of this Tribunal <sup>M</sup> ~~is~~ by refusing commutation of pension to the applicant. As we now see it, that there is a genuine controversy between the parties as to whether during the pendency of Disciplinary Proceedings a person can be allowed commutation of pension at all and this involves an interpretation of the rules. That being the case, the proper course open to the applicant is to agitate the matter separately and <sup>not</sup> by way of an interim relief in this application.

5. In view of the above, the Contempt of Court Proceedings are hereby dropped leaving the parties to bear their own costs.

6. A copy of this order may be handed over to both the counsels as soon as it is signed by us.

  
(P. SRINIVASAN)  
MEMBER (A)  
16/2/59

  
(P.K. KARTHA)  
VICE CHAIRMAN(J)