

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 2202/90 199
T.A. No.

DATE OF DECISION 9.8.1991

Shri Atma Ram Petitioner Applicant

Shri D.P. Avinashi, Advocate for the Petitioner(s) Applicant
 Versus

U.O.I & anr. Respondent*

Mrs. Ashoka Jain, Advocate for the Respondent(s)

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The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N.DHOUNDIYAL, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE MR. B.N.
 DHOUNDIYAL, MEMBER)

The question raised in this O.A. by Shri Atma Ram, a retired driver of Publicity Division, Delhi Administration, Delhi, is whether pending a criminal case against him, the respondents can legally withhold payments due to him in respect of gratuity, leave encashment and commutation of pension by the impugned order dated 16.2.90.

2. The accepted facts of the case are that Shri Atma Ram, who had been satisfactorily serving in the Publicity Department of Delhi Administration since 3.8.1960, had the misfortune of getting involved in an accident on 19.9.86 while driving the Government Jeep No.DED 5556. A suit was filed by the injured party Miss Renu Sharma claiming a compensation of Rs.2 lakhs and Shri Atma Ram and the Delhi Administration have been made parties to it.

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A F.I.R was also lodged with Police and a criminal case is pending against him. On attaining the age of superannuation, the applicant retired on 31.12.1989. On his retirement, he was paid a provisional pension, final payment of G.P.F and Group Insurance money. However, as mentioned in the letter No.F.4(60)/68-DIP/2183 dated 16.2.90 (Annexure A), the following payments have been withheld:-

" Payment of Gratuity - Not released in view of Rule 69(c) of the CCS(Pension) Rules, 1972 as Judicial proceedings are pending in the court of Sh.H.P.Sharma, M.R.C.T, Delhi.

Leave Encashment - Could not be paid outright under Rule 39(3) of the CCS(Leave) Rules, 1972.

Commutation of Pension - Not released in view of restriction of Commutation of Pension as given in Rule 4 of Appendix-I of CCS(Commutation of Pension) Rule 1981 as Judicial proceedings are pending in the Court of Sh.H.P.Sharma, M.R.C.T, Delhi."

3. The applicant has contended that withholding these dues is illegal and arbitrary. The insurer is liable to pay any damages to the injured. In case the vehicle is not insured, the Department is liable to compensate the injured as the vehicle was being driven for Government work. The applicant has prayed that the order of the respondents dated 16.2.90 may be declared illegal and directions may be issued to them for payment of gratuity, leave encashment, commutation of pension and 18% interest to the applicant immediately.

4. The respondents have stated that the matter regarding payment of pensionary benefits was referred to the Finance Department of Delhi Administration and since judicial proceedings are pending against him and a considerable liability is to be inflicted on him/Department, it is not possible to go beyond the rules on the subject.

5. We have gone through the records of the case and heard the contentions of the learned counsel of both parties. Under the provisions of the Motor Vehicle Act, every

vehicle plying on the road has to be insured covering

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third party damages. If the Delhi Administration has not issued the vehicle, they have assumed the responsibility of covering such risks themselves. Thus there is some merit in the applicant's contention that even if the suit filed by the injured succeeds, the damage liability is that of the insurer or of the Delhi Administration.

6. The respondents have stated that a F.I.R has also been lodged with police and a criminal case is pending against the applicant. The applicant has stated in his rejoinder that he has denied the charge that he caused the accident due to his negligence and rash driving. The innocence or guilt of the applicant will be decided by the Criminal Court where the case is pending.

7. Till the Criminal Court decides the case pending against him, the applicant/claim gratuity and other retirement benefits normally given to retired Government servants. In case the Criminal Court acquits him, the applicant would be entitled to these benefits which have been withheld by the respondents in terms of Rule 69(c) of the C.C.S(Pension) Rules, 1972, Rule 39(3) of C.C.S(Leave) Rules, 1972 and Rule 4 of the C.C.S(Commutation of Pension) Rule 1981.

8. In the light of the above, the applicant is not entitled to the reliefs sought in the application and the same is dismissed. There will be no order as to costs.

B.N.Dhundiyal
(B.N.DHUNDIYAL)
MEMBER(A) 8/8/71

Onward
(P.K.KARTHA) 9/8/71
VICE CHAIRMAN(J)