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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.189/92.

Date of decision 11/11/92

Shri Manjit Singh ... Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Mr. I.P. Gupta, Member (A)

For the Applicant ... Shri Jog Singh, Counsel

For the Respondents ... Shri M.L. Varma, Counsel

- (1) Whether Reporters of local papers may be allowed to see the Judgement ?
- (2) To be referred to the Reporter or not ?

J _ U _ D _ G _ E _ M _ E _ N _ T

[Delivered by Hon'ble Shri I.P. Gupta, Member (A)]

and

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the charge-sheet dated 19.12.1991 as well as the disciplinary proceedings and for directing the respondents to release all his retiral benefits.

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2. The Learned Counsel for the applicant argued that the charge-sheet related to the period 1986. Further, the charge-sheet showed that no pecuniary loss was caused to the applicant because of the applicant's act. The applicant retired on 31st December, 1991 i.e. just after a few days of the furnishing of the charge-sheet. The disciplinary proceedings are still continuing. There has, thus, been unusual delay in the disciplinary proceedings. The departmental proceedings, if instituted while the Government servant was in service, shall after the final retirement of the Government servant be deemed to be the proceedings under rule 9 of the concerned rules. Rule 9(1) of the said rules reads as follows :-

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" The President reserves to himself the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy-five per mensem."


The Learned Counsel of the applicant drew our attention to the Order dated 7.7.1989 given by the Principal Bench in O.A. No. 1760/89 (Shri K. K. Kochar v/s Union of India. He, therefore, said that only such departmental proceedings as are initiated against the Government servant while in service can be continued after his retirement which entail pecuniary loss to the Government and there is nothing in the charge levelled against the applicant to show that the authorities felt that pecuniary loss had been ^{caused} ~~occurred~~ to the Government. ~~servant~~ We would not like to interpret the provisions of rule 9(1) of the Pension Rules at this stage to the disadvantage of the applicant, when our attention has been drawn by the Learned Counsel of the respondents to Rule 23 of the CCS(CCA) Rules which provides for an appeal against an order which interprets to the disadvantage of a Government servant the provisions of any rule or agreement.

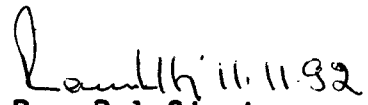
for

3. The applicant may, therefore, prefer an appeal

to the appropriate authority in the first instance in regard to the continuance of the disciplinary proceedings and consequential non-release of some pensionary benefits laying down his grounds for the appeal. The respondents are directed to dispose of the appeal by a speaking order within a period of three months from the date of communication of the order. Should the applicant feel aggrieved by the Order, he is at liberty to approach the Tribunal.

4. With the above directions, the case is disposed of with no orders as to costs.


I.P. Gupta
Member (A) 11/11/92


Ram Pal Singh
Vice-Chairman (J)