

(7)

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.1213/92

Date of decision: 22.12.1992.

Shri H.R.K.Bhatnagar

...Petitioner

Versus

Union of India through the  
Secretary, Central Board of  
Excise & Customs,  
New Delhi & Others

...Respondents

Coram:-

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

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

None

For the respondents

Shri P.P. Khurana, Counsel.


Judgement(Oral)

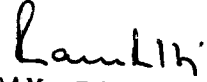
(Hon'ble Mr. I.K. Rasgotra, Member (A))

The pleadings in this case are complete. However, neither the petitioner nor his counsel was present when the matter came up for disposal today. The petitioner has prayed that his pension and other terminal benefits admissible to him may be directed to be calculated and paid as if he was reinstated in service on the date of his superannuation on March 31, 1990 and his average monthly emoluments calculated for the last 10 months accordingly, deeming as if he was not under suspension prior to the date of his retirement. His next prayer is that the differential between the provisional pension and final pension be paid to him as expeditiously as possible and finally the respondents should be directed to release the leave encashment and the gratuity payable to him.

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2. The respondents in their counter-affidavit have submitted that the petitioner is involved in a criminal case and on the basis of the Central Bureau of Investigation's investigation a chargesheet has been filed in the Court of Sub-Judge, Delhi on 19.12.89. During the pendency of the criminal case the petitioner retired from service on 31.3.1991. The petitioner had filed another O.A. No.993/90 at the Principal Bench and the directions given in that O.A. as per the interim order have already been implemented. The criminal case against the petitioner, however, is still pending and proceedings are continuing. In accordance with Rule 39 (3) of C.C.S. (Leave) Rules, 1972 and Rule 69(c) of the C.C.S. (Pension) Rules, 1972 the leave encashment and the gratuity due to the petitioner cannot be released till the criminal case is decided. Accordingly, the petitioner has to wait till the criminal proceedings are decided for the payment of his outstanding dues. All the other dues have been paid to him besides the provisional pension which has already been sanctioned. Having considered the matter carefully, we are of the opinion that there is no merit in the petition at this stage. Accordingly, the same is dismissed. If the petitioner is aggrieved ultimately after the criminal case against him is decided, he shall be at liberty to agitate his grievance in accordance with law, if so advised. No costs.

  
(I.K. RASGOTRA)  
Member(A)

  
(RAM PAL SINGH)  
Vice-Chairman(J)