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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.2120/93

This 19th day of May 1994

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

68, J.D. Gupta,
New Rajdhani Enclave,
Vikas Marg,
Delhi-92 Applicant

By Advocate: Shri S.C. Jain

VERSUS

1. Union of India, through
The Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi.
2. The Director General of Works,
C.P.W.D., Nirman Bhavan
New Delhi.

Respondents

By Advocate: Shri Madhav Panikar.

O R D E R (Oral)

(By Hon'ble Mr. J.P. Sharma, M(J))

The matter was originally listed before the Single Bench but since the applicant has challenged the vires of Rule 69(c) of CCS (Pension) Rules 1972, this matter has been ordered to be listed before a Division Bench for judgment.

2. We have heard the learned counsel for the applicant on Rule 69(c) of CCS (Pension) Rules 1972. The contention of the learned counsel for the applicant is that sometime in 1991 the Rule 9(1) of CCS(Pension) Rules has been amended where the President has given authority to withhold the gratuity as well as pension. There is no second amendment to Rule 69(c) and as such the authority to withhold the payment of gratuity rests solely with the President. While Rule 69 ordains that no

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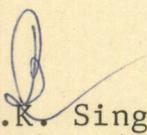
gratuity be paid to a government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.

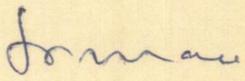
3. The matter has gone before the Hon'ble Supreme Court in a number of cases where gratuity of the retirees has been withheld. In the case of D.V. Kapur Vs. Union of India, AIR 1990 SC p.1923, the Hon'ble Supreme Court has considered the point of payment of gratuity or deduction from the gratuity. The point of ultra vires of Rule has not been assailed before the Hon'ble Supreme Court but by implication it is evident that Rule 69 is held *infra vires*. The only point argued by the learned counsel for the applicant is regarding amendment of Rule 9(1) of the CCS (Pension) Rules, 1972. There is a material difference between withholding payment of gratuity under Rule 69(c) and that under Rule 9(1) of CCS (Pension) Rules 1972 as amended in 1991. In the former case the applicant had already been served with a memo of charge-sheet during his active service just before his retirement. The payment of gratuity has only been withheld and it would be payable as per the outcome of the departmental enquiry against him. Under Rule 9(1) the President has been given power to withhold permanently or temporarily the whole amount or part of the gratuity as well as pension. The learned counsel has also referred to a decision of Hon'ble Supreme Court in Jarnail Singh v. Union of India, 1993 (1) SC p.47. We have already considered this case. Further the gratuity of the applicant has only been withheld until the conclusion of the departmental proceedings against him and in ^{the} event of his being exonerated, he shall be compensated by payment of interest on it.

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4. We do not see that the provision of Rule 69(c) is in any way arbitrary or violative of any of the reliefs guaranteed to an individual under Article 14 and 16 of the Constitution. These provisions apply equally to all the employees serving under Union of India and those who are governed by CCS (Pension) Rules 1972. Further, non-payment of gratuity has in itself a nexus with an objective sought to be achieved. In case of the conclusion of the departmental proceedings against the applicant, he can be penalised by any of the punishments laid down under CCS (Pension) Rules 1965 and he may also be made to compensate any losses the Government may have suffered. Thus we do not see any arbitrariness in the said provision. Therefore this application is dismissed as devoid of any merit, at the admission stage itself, leaving the parties to bear their own costs.

5. Here, it may be mentioned that the applicant has filed another OA No. 2085/93 in which he has invoked Rule 69 of CCS(Pension) Rules for payment of provisional pension.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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