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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.2561/93

New Delhi, this the 6th June, 1994

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A)

Shri H.L.Maggo
s/o Shri Desh Raj Maggo
D-9/B Moti Nagar
New Delhi.

..Applicant

(By Shri B.S.Mainee, Advocate)

Vs.

1. Secretary (Revenue),
Ministry of Finance,
North Block, New Delhi.

2. Principal Collector,
Central Excise & Customs,
Central Revenue Building,
New Delhi.

3. Collector (Customs)
Central Revenue Building,
New Delhi.

..Respondents.

(By Shri R.R.Bharti, Advocate)

ORDER (ORAL)
SHRI P.T.THIRUVENGADAM, MEMBER (A).

The applicant retired as Customs Superintendent on 28-2-1993. This O.A. has been filed for the release of DCRG, leave encashment for 240 days, commutation of pension and efficiency bar dues.

2. The case of the applicant is that at the time of his retirement, a criminal petition had been filed against him on 22-2-93 but this was withdrawn subsequent to his retirement i.e. on 28-10-1993. As such, on the date of his retirement effective no/judicial proceedings were pending against him and hence the non-allowance of the above retirement due is irregular.

3. On the other hand, the respondents argue that the criminal proceeding filed on 22-2-1993 had been withdrawn since it was filed by an authority who was not competent to do so. Subsequently a complaint was filed against the applicant in

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the court of Matropolitan Magistrate, Delhi and the case is listed for 10-6-94 in the court of M.M.Delhi. Hence the respondents argue that the judicial proceedings are still going on.

4. The short issue which arises for consideration is whether at the time of retirement of the applicant there was any departmental or judicial proceeding against him. It is not in dispute that there was no departmental proceeding against the applicant on 28-2-93 when he retired. As regards the judicial proceeding, no doubt, initially a criminal petition had been filed just prior to the date of his retirement but since this was withdrawn by the respondents themselves subsequently and the fresh petition filed is only on 10-5-94 on which further judicial proceedings are now taking place, it has to be held that on the crucial date there was no valid judicial proceeding pending against the applicant. As per relevant pension rules, retirement benefits like DCRG, Leave Encashment and Commutation of Pension cannot be denied unless departmental or judicial proceedings are in progress at the time of retirement. In this case the judicial proceeding that was initiated on 22-2-93 had to be withdrawn on 28-10-93 due to the incompetent authority having filed the petition. *The correct authority filed the petition.* Again only on 10-5-94, [^] Thus the original petition filed on 22-3-93 was not a valid one and thus till 10-5-94, no judicial proceedings can be held to have been correctly initiated. Looking from a different angle there was certainly no proceedings after October 1993 and at least at this stage the terminal dues should have been released. The applicant is accordingly entitled for the release of DCRG, leave encashment as due, and commutation of pension on his retirement. The respondents are now directed to release these benefits within a period of three

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months from the date of receipt of this order failing which interest @ 12% will have to be paid beyond the period of three months.

5. As regards the efficiency bar dues, since this is an issue not related to the judicial proceedings under discussion, the applicant is directed to make a representation to the respondents for settling the same who should do so expeditiously.

6. With the above direction the O.A. is disposed of. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)

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