

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 20TH DAY OF JULY, 2001

Original Application no.847 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

Abdul Waheed, Son of Shri Abdul Hameed
R/o House No.133/237 C-1 Ratipurwa
Kanpur Nagar, Kanpur.

... Applicant

(By Adv: Shri D.B.Mukherjee)

Versus

1. Union of India through the Secretary, Ministry of Defence Government of India, new Delhi.
2. General Manager Ordnance Parachute Factory, Kanpur Nagar, Kanpur.
3. O.I.D.C Ordnance Parachute Factory, Kanpur Nagar, Kanpur.

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of C.A.T. Act 1985, the applicant has challenged the order of suspension dated 18.5.2000 and has also prayed for a direction to the respondents to pay the entire retiral benefits to the applicant within the time fixed by this Tribunal.

The facts of the case giving rise to this application are that applicant Abdul Waheed was serving as Assistant in Ordnance Factory, Kanpur with Ticket 6737/L. on 2.5.2000 he was arrested in case crime no.65/2000 U/ss 420/427/467/468/469/471 I.P.C registered at Police Station Swaroop Nagar, district Kanpur Nagar. As he remained in custody for more than 48 hours he was under deemed suspension and was suspended for further period by impugned order dated 18.5.2000. Applicant in the meantime attained the age of superannuation and retired from service *in*

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on 30.11.2000.

Learned counsel for the applicant has submitted that the dispute for which applicant was arrested is entirely private property dispute between him and the complainant. The government has nothing to do with the same. Learned counsel has placed before me the order of learned Sessions Judge Kanpur Nagar dated 9.5.2000 giving the facts of the case in detail. It is submitted that though about 8 months have passed, applicant has not been paid his retiral benefits and he is facing great hardship.

Shri A.N.Shukla holding brief of Shri R.C.Joshi appearing for the respondents, on the other hand, submitted that under rules applicant is not entitled for the payment of retiral benefits in case any criminal or disciplinary proceedings is pending against him.

I have considered the submissions of the counsel for the parties. As the applicant has already retired from service on 30.11.2000 the order of suspension has become ineffective and no relief is required in this regard.

The second relief of the applicant is for payment of retiral benefits. In the present case there is no doubt that applicant was arrested in criminal case, on the basis of a complaint filed by private person with regard to the dispute of property. The dispute is private having no concern with the department. In these circumstances, there is no likelihood that the department will initiate any disciplinary proceeding against the applicant as no misconduct is involved. The order of suspension was passed against the applicant merely on the ground that he remained in custody for more than 48 hours. The purpose and object behind Rule 67 of ^{v. of C.R.C. (Pension) Rule 67} prohibiting payment of retiral benefits, appears to protect the interest of Govt, if the concerned employee is facing criminal or disciplinary proceeding involving a misconduct as Govt servant, which also resulted in monetary loss to Govt. There appears no legal and valid reason to extend the application of this Rule to

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a private dispute regarding property to which the employee is incidently a party. The purpose is not to punish a retired government servant who happened to be a party to a dispute relating to property. As there appears no legal impediment against payment of pension to applicant, he is entitled for relief.

The OA is accordingly disposed of finally with a direction to the respondent no.2 to pay the entite^{re} "retiral benefits of the applicant within a period of two months and in case the amount cannot be paid to the applicant he will inform him in writing indicating the reason therefor. No order as to costs.



VICE CHAIRMAN

Dated: 20.7.2001

Uv/