

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

THIS THE 11TH DAY OF MARCH, 2005

ORIGINAL APPLICATION NO. 461 OF 2004

HON'BLE MR. JUSTICE S.R. SINGH, VICE CHAIRMAN

Baij Nath Pandey,
S/o Late Baikunth Narain Pandey,]
R/o 127/317 'W' Block,
Keshav Nagar,
Kanpur ... Applicant

By Advocate : Sri H.S. Srivastava.

Versus.

1. Union of India through the Secretary, Ministry of Defence, (Finance), New Delhi
2. The Controller General of Defence, Accounts, West Block, V R.K. Puram, New Delhi.
3. The Principal Controller of Defence Accounts (Central Command), Lucknow. Respondents.

By Advocate : Sri Saumitra Singh.

ORDER (ORAL)

Heard Sri H.S. Srivastava, learned counsel for the applicant and Sri Saumitra Singh, learned Senior Standing Counsel representing for the respondents.

2. While working as Senior Auditor under the Principal Controller of Defence Accounts (Central Command), Lucknow, the applicant was arrested in connection with under Section 498-A/304-B I.P.C. on 1.12.1999. By order dated 31.3.1999, he was

(Signature)

placed under deemed suspension. Subsequently by order dated 5.8.1999, the suspension of the applicant was revoked and the applicant later retired on superannuation w.e.f. 31.1.2002. Though, the orders for payment of pension has been issued and the applicant is getting his pension, but gratuity, commuted value of pension and pay for the suspension period have not been released to the applicant. The instant O.A. has been instituted by the applicant for issuance of a direction to the respondents to pay full amount of retirement gratuity and commuted value of pension with interest @18% per annum from the date of retirement till the date of actual payment and to pay full pay and allowances of suspension period after adjustment of subsistence allowance already paid with interest @ 18% per annum from the date it fell due till the date of actual payment.. The order contained in letter no. AN/IVA/Corr/Kanpur dated 10.7.2003 issued by the respondent no.3 showing the demand of Rs. 3652/- is also sought to be quashed and issue orders for reconveyance of House deed. The learned counsel for the applicant submits that the applicant has since been acquitted in the criminal case vide judgment and order dated 13.2.2004 passed by the Additional Session Judge, Kanpur Nagar.



3. In para 17 of the Counter affidavit, it has been stated that the applicant's gratuity was withheld due to pendency of judicial proceedings and what ever amount is due to the applicant, will be released by the respondents as per rules on his exoneration. This has been done, according to the respondent, as per rule 9 and 69 of CCS (Pension), Rules, 1972. The learned counsel for the applicant, however, submits that the said rule is not attracted in his case as it does not relate to the service matter. Be that as it may, the final decision is to be taken by the competent authority in view of the fact that the applicant has since been acquitted in the criminal case. I am, therefore, of the view, that ends of justice shall better be served if the O.A. is disposed of with a direction to the respondents to take appropriate decision in respect of the applicant's claim as set out hereinabove, in accordance with law within a period of two months from the date of receipt of copy of this order.

4. The O.A. stands disposed of in view of the above terms. Parties shall bear their own costs.

TGJ
VICE CHAIRMAN

GIRISH/-