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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1431 of 2005

Dated this the 28th day of April, 2006

Hon'ble Mr. Justice Khem Karan, V.C.
Hon'ble Mr. A.K. Singh, Member (A)

Ved Prakash Srivastava S/o Late Vishwa Nath Prasad Srivastava, Retired Senior Accounts Officer, aged 60 years, resident of 11/268, Avas Vikas Colony, Yojna-3, Jhunsi, Allahabad.

Applicant

By Advocate Shri R.K. Upadhyaya

Versus

1. Accountant General, Uttar Pradesh (A&E)-I, 20, Sarojini Naidu Marg, Allahabad.
2. Comptroller and Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. Justice Khem Karan, V.C.

The applicant has prayed for (a) quashing the charge sheet dated 30.03.2005 (annexure A-1) and (b) directing the respondents to release the retiral benefits such as pension, gratuity, commutation of pension, encashment of leave etc., as may be admissible to him as per rules. The prayer is also there for directing the payment of interest at the rate of 24% on the amount that has not been paid so far.

2. While in service of the respondents, he was served with a memorandum of charge sheet dated

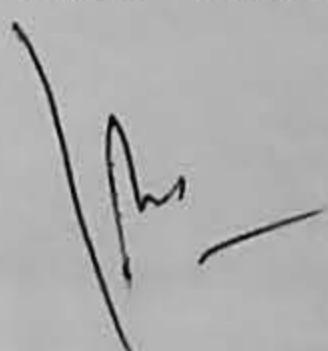
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30.03.2005 (annexure A-1), containing two charges as mentioned in paragraph no.4.6 of the O.A. and before the enquiry into the charges could be concluded, he retired on 31.08.2005, on attaining the age of superannuation. The applicant has tried to say that the charges are totally ill-founded and have been levelled for extraneous reasons. He complains that even retiral dues admissible to him, have not been released so far. He has also claimed interest @ 24% per annum on sums not paid to him from the date or dates same ought to have been paid.

3. In regard to prayer for quashing the charge sheet dated 30.03.2005 (annexure A-1), we may say that in view of the law laid down by the Apex Court in Union of India Vs. Ashok Kacker 1995 Suppl.(1) SCC 180 and Secretary to Govt. Prohibition and Excise Department Vs. L. Srinivasa (1996) 3 SCC 157 and by High Court, Allahabad in Writ Petition No.8797 of 2006 Union of India Vs. Ravindra Nath Tripathi and others, it is not possible for this Tribunal to examine the correctness or otherwise of the charges. It has to be done by the Enquiry Officer and the Disciplinary Authority, in accordance with rules and the principles of natural justice. Thus, there is a serious doubt, whether O.A. for granting relief (a) is maintainable.

4. In so far as the second relief is concerned, there can be no debate that a person retired, is entitled to certain pensionary benefits and the same have to be released at the earliest possible. So this prayer for grant of pensionary benefits cannot be said to be unjustified or not maintainable. It is never the case of the respondents that the applicant is not entitled to pension etc., what its say that pension etc. may be subject to the result of pending enquiry. The department has to take final decision in that matter at the earliest



(a)

possible and clear the dues that may be found admissible under the rules.

5. As regards the claim of interest @ 24%, Shri Upadhyaya has not been able to satisfy us, as a period of only few months has elapsed to the retirement and pending enquiry might have persuaded the authorities to withhold some benefits for some time.

6. So this O.A. is finally disposed of with a direction to the respondents to expedite the disposal of pending enquiry and pass appropriate orders, without further delay. The respondents are further directed to release those retiral dues/benefits which cannot be withheld because of pending enquiry as per rules, within a period of 3 months from the date of a certified copy of this order is produced before them. Relief (a) for quashing the charge sheet and relief(c) for grant of interest are refused. No order as to cost.

Member (A)

Vice Chairman

/M.M. /