

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration T.A. No. 740 of 1987  
( W.P. No. 5839 of 1981 )

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

( By Hon. Mr. Justice U.C. Srivastava, V.C. )

The applicant who started his service career w.e.f. 8.7.1943 on the post of Lower Division Clerk in Central Excise Department was retired from service on 30.6.1978 from the post of Administrative Officer, Central Excise, Mirzapur. Although, the petitioner had retired on 30.6.1978 but till today, he has not been paid his pension, gratuity or other pensionary benefits, and after exhausting various remedy, he approached the High Court in the year 1981. The writ petition could not be disposed off and within this period, the Administrative Tribunal has come into force and consequently, it was transferred to this Tribunal.

2. The applicant's case is that no criminal case or any departmental proceeding is pending against him. It appears that in view of some proceedings against another person, his pension or pensionary benefits are not given to him. The respondents have opposed the application of the applicant by filing the reply and it has been stated by the respondents that the applicant was involved in a case of embezzlement of Government money with one Sri Rajmani Tiwari, the then cashier which is under investigation by the police authorities and vigilance clearance was not given to him by the vigilance branch.

Contd.

3. The applicant in his rejoinder affidavit has stated that ofcourse the embezzlement case is not against the applicant and he was neither named in F.I.R. nor was placed before any authority or the criminal court and no departmental proceedings or criminal case whatsoever is pending against him. The alleged investigation has also been denied. Years have passed and even now the respondents have not come forward with the case that subsequently, some criminal or departmental proceedings has been started against him. There being no ~~cp~~ proceedings against him, merely on the basis of doubt or suspicion <sup>2</sup> against a person, a departmental proceeding has been initiated, could not be a ground to deprive a person to his legal rights like pension or pensionary benefits, which can not be taken away <sup>except</sup> in accordance with law. In the instant case, the applicant is being deprived of his pension or pensionary benefits without any authority of law. Consequently, the respondents are directed to pay the arrears of pension gratuity and commuted amount of pension and other dues to the applicant within 3 months from the date of communication of this order and they are also directed to pay him full pension regularly from the month of January, 1992. Now the respondents shall also pay the interest of 10% over the entire amount which has been withheld upto now including over the arrears w.e.f. 1st October, 1985. The interest shall also be paid within this period. The application is disposed of with the above observations. Parties to bear their own costs.

*transcript*  
Member (A)

Dated: 6.12.1991  
(n.u.)

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Vice-Chairman