

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No: 1016

of 199 2

T.A. No:

of 199

DATE OF DECISION: 17-1-94

H. L. Gupta

PETITIONER.

S. O. P. Gupta

ADVOCATE FOR THE
PETITIONER

V E R S U S

Union of India & or

RESPONDENTS

Dr. C. S. Singh

ADVOCATES FOR THE
RESPONDENTS

CORAM:-

The Hon'ble Mr. Maharajdin J.R.

The Hon'ble Mr. _____

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether to be circulated to all other Benches?

JAYANTI/

[Signature]
SIGNATURE

(C)

THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Original Application No.1816/1992

H.L.Gupta	Applicant
		Vs	
Union of India and others	...		Respondents
	-:o:-		

HON'BLE MR MAHARAJDIN, MEMBER(J)

The applicant has filed this application seeking the relief to set aside the order dated 30-01-90 (Annexure-1) by which the deduction was ordered to be made from the amount of pension of the applicant.

The applicant retired on superannuation on 31-10-89 from the post of Junior Scientific Officer, Controllerate of Quality Assurance (Materials) Kanpur. The applicant was put under suspension one month before his retirement vide order dated 12-09-89 (Annexure A-8) as he was involved in some departmental proceedings. The case of the applicant was entrusted for investigation to C.B.I. and the C.B.I. enquiry is still not finalised. Since the deduction of the amount has been made from the amount of pension without the sanction of the President of India, so it is stated that the order passed in this respect is illegal.

The respondents filed Counter Affidavit and resisted the claim of the applicant inter alia on the ground that since the applicant was put under suspension, therefore he was not entitled to get the retiral benefits ^{such as} as D.C.R.G., gratuity, amount of G.I.S. etc.

Wms

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
I have heard the learned counsel for parties and perused the record.

It is not disputed that the deductions from the amount of the pension of the applicant was ordered to be made without obtaining sanction of the President of India. Rule 9(1) of Central Civil Services (Pension) Rules 1972 reads as under :

*(1) The President reserves to himself the right of with-holding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement."

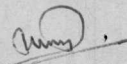
The applicant retired on 31-10-1989 on attaining the age of super-annuation. The P.P.O. was issued on 29-09-89. The retiral benefits including the amount of D.C.R.G., C.V.P. was paid to the applicant in the month of December 1989. The corrigendum for original P.P.O. was issued making the deduction of the amount already paid to the applicant on 30-01-90 (Annexure A-1). The respondents started making deductions from the amount of pension from March 1990.

The law is settled on the point that no deduction from the amount of pension can be made without sanction of President of India as has been provided in the Rule itself cited above. Thus taking into consideration these facts I am of the opinion that the impugned order dated 30-01-90 (Annexure A-1) deserves to be set aside.

 The learned counsel for the respondents has

contended that the application of the applicant is barred by limitation. It is stated that the deduction was ordered to be made vide Annexure-1 dated 30-01-90, so the cause of action to the applicant has accrued at that time. The learned counsel for the applicant, on the contrary, has contended that the actual deduction started to be made from the amount of pension from March 1990 upon which the applicant submitted representation which was replied vide Annexure A-7 dated 20-10-92. The period of limitation thus will start from 20-10-1992 when the representation was replied and application has been filed before this Tribunal on 24-12-1992. I, therefore, find no force in the arguments advanced by learned counsel for the respondents on the plea of limitation.

The application is accordingly partly allowed and the order dated 30-01-90 (Annexure A-1) is set aside. The respondents shall, however, be at liberty to start the proceeding for making deduction from the amount of pension of the applicant as per rules and the amount which has already been deducted shall be so adjusted thereafter. If the sanction of the President of India about deduction of the amount from the amount of pension is not obtained within a period of six months from today, the amount which has already been deducted from the amount of pension, shall be refunded to the applicant.



MEMBER (J)

DATED: Allahabad, January 17, 1994
(VKS PS)
