

A.F.R.

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 2nd day of February 2001.

Original Application no. 796 of 1999.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman

Peer Mohd. a/a 60 Years,
T. No. 6024/L Tailor Kushal,
S/o Late Shri Abdul Rehman,
R/o House No. 260-A, Meerapur,
P.S. Rail Bazar, Distt. Kanpur Nagar.

... Applicant

C/A Shri S.R. Verma

Versus

1. Union of India through its Secretary,
Ministry of Personnel/Grievance & Pension
(Department of Personnel & Training),
North Block, New Delhi.
2. General Manager, Ordinance Parasuit Factory,
Kanpur.

... Respondents

C/Rs Shri Ashok Mohiley.

O R D E R(Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this OA under section 19 of the A.T. Act,
the applicant has prayed for a direction to the respondents



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to pay retiral benefits, including pension, gratuity etc. for which he may ^{be} entitled under rules.

2. The facts in short giving rise to this OA are that the applicant Shri Peer Mohd. was serving as Tailor skilled in Ordinance Parasuit Factory, Kanpur. He retired from service on 31.03.1999. However, before his retirement a F.I.R. was lodged against him under sections 498 A/323/504 I.P.C. on 09.03.1998 at police station Rail Bazar, Kanpur Nagar, which was registered as case crime no. 87/98. In this case the applicant was arrested and was sent to jail where he remained from 10.03.98 to 12.03.98. However, the applicant was neither suspended nor any disciplinary proceedings were initiated against him. He retired from service on 31.03.99. The respondents have, however, refused to pay his retiral benefits on the ground that a judicial proceedings is pending against him. ~~The~~ Only provisional pension is being paid to him @ Rs. 2275/- per month. The applicant made several representations but the amount was not paid. He filed an application before the General Manager on 23.02.99 stating that the dispute has been compromised and his daughter in law is now living with his son and the criminal proceedings in judicial court are likely to ~~be~~ end very soon. He requested for payment of his retiral benefits, but the same has not been paid. Shri Ashok Mohiley, learned counsel for the respondents submitted that in view of the provisions contained in rule 74 of CCS(Pension) rules, the applicant is not entitled for retiral benefits until

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judicial proceedings are pending against him. Rule 74, relied on is being reproduced below:-

"74. Provisional pension where departmental or judicial proceeding may be pending.

1. a. In respect of a Governemtn servant referred to in sub-rule (4) of Rule 9, the Head of Office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement, up to the date immediately preceding the date on which he was placed under suspnsneion.

b. The provisional pension shall be paid, by the Head of Office for a period of six months unless the period is extended by the Audit Officer under the proviso to sub-rule (1) of Rule 73.

c. No gratuity shall be paid to the Governemntt servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.

2. Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.



3. Nothing contained in this rule shall prejudice the operation of Rule 6 when final pension is sanctioned upon the conclusion of the departmental or judicial proceedings."

3. Shri S.R. Verma learned counsel for the applicant on the other hand submitted that the judicial proceedings in rule 74 cannot cover the proceeding arising out of family disputes or property dispute ~~in~~^{an}-relating to the applicant. It is also submitted that the respondents have withheld the payment of retiral benefits in arbitrary manner under misconception of the legal provisions mentioned above under rule 74 of C.C.S.(Pension)Rules.

4. I have carefully considered the submissions of the learned counsel for the parties. In my opinion the retiral benefits for which the applicant is entitled after retirement, have been illegally withheld. It is a settled principle of interpretation of legal provisions that the word used in the provision get colour from the other word it keeps company, used in that provision. In rule 74 the word 'judicial proceedings' has been used after the word departmental. Intention appears to be that the provisional pension shall be paid only where the employee is involved in either departmental proceeding or in judicial proceeding arising out of a misconduct of the employee having connection with employment. The word 'judicial proceeding' should be read and construed in context with the department where he was serving. The word judicial proceeding used in 'rule 74' cannot be given

wider meaning so as to cover all kind of judicial proceedings in which an employee may be involved. It is not difficult to imagine that judicial proceedings may arise out of property dispute, criminal offence, an accident and many other similar such reasons which may occur in day to day life. The legislative intent cannot be to cover all judicial proceedings arising out of all such events. The object appears to protect Government interest during the pendency of the departmental proceedings as on conclusion of the proceedings, employee may be saddled with the responsibility to pay some amount to the Government. The departmental proceedings may be initiated even to deprive him of the pensionary benefits. The provision contained in rule 74 are thus only to protect the Government interest in such situation.

5. In the present case the facts are that the criminal case registered against the applicant is under section 498 A/323/504 IPC. The offence is that the daughter in law was harassed for dowry. Even assuming for the sake of argument that the allegation made were correct, the conduct of the applicant had nothing to do with his employment. He has already made an application that the dispute is between his son and his daughter in law. In these facts and circumstances in my opinion there appears no justification on the part of the respondents in withholding the pensionary benefits of the applicant.

6. For the reasons stated above, this OA is

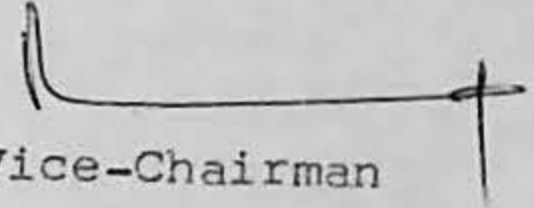


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allowed. The respondents are directed to pay entire pensionary benefits of the applicant including gratuity for which he may be entitled under rule within a period of four months from the date of copy of this order is filed before the Competent Authority. The amount already paid shall be adjusted.

7. No order as to costs.


Vice-Chairman

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