

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 186 of 1989.
~~Ex. No.~~

DATE OF DECISION 26.7.1991

Dr. Krishna Chandra Sagar Petitioner

P in P Advocate for the Petitioner(s)

Versus

State of Gujarat & Anr. Respondent

Mr. P.M. Rayal Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh .. Member (A)

The Hon'ble Mr. S. Santhana Krishnan .. Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? JK
2. To be referred to the Reporter or not? ND
3. Whether their Lordships wish to see the fair copy of the Judgement? ND
4. Whether it needs to be circulated to other Benches of the Tribunal? ND

6

Dr. Krishna Chandra Sagar,
IAS (Retd),
Bharat Nivas,
Bungalow No. A.22,
Karmacharinagar,
Ranna Park,
Ahmedabad-380 061.

: Applicant

Versus

1. State of Gujarat,
Through:
The Secretary to Govt.,
General Administration Deptt.,
Sachivalaya,
Gandhinagar - 382 010.

2. The Union of India,
Through :
Secretary to Govt. of India,
Ministry of Personnel,
Administrative Reforms,
Public Grievance, Pension,
New Delhi - 110 001.

: Respondents

O.A. No. 186 of 1991

ORAL - ORDER

Dated : 26.7.1991

Per : Hon'ble Mr. M.M. Singh : Member (A)

By order dated 16.7.1991, a last opportunity was given to the applicant to appear. When the matter is called today, the applicant petitioner in person is not present.

2. This Original Application under section 19 of the Administrative Tribunals Act, 1985, has been filed with the allegation that the Government of Gujarat purporting to be acting under All India Services (DCRB) Rules, 1958 have not released the pension and gratuity admissible to the applicant. The applicant retired from service on 31.12.1989 on attaining the age of superannuation. It is alleged that the State Government acting under sub-rule 2 of rule 6 of the All India Services (DCRB) Rules, 1958 withheld sanction the pension and gratuity on the ground that the

7

applicant has caused pecuniary^M loss to the Government which remains to be recovered and a departmental inquiry is going on against the applicant on the allegation that he caused pecuniary^M loss to the Government.

3. Allegation has been made that the State Government had instituted false inquiry to harass the applicant. It is mention^{ed} in connection with this allegation that the conspiracy included a plan whereby an officer who was prejudiced against the applicant was appointed as inquiry authority against the rules. It was done in order to get an arranged report from the Inquiry Authority to find out something against the applicant so that he could be further harassed. The Government is alleged to have deliberately delayed the final order with regard to payment of the pension and gratuity as no departmental proceeding was completed in December, 1988. After about three years, final action on it remains to be taken.

4. When departmental inquiry has already been completed and final order remains to be issued, it is too late for the applicant to make such allegations in the petition questioning delay in issue of order of pension and gratuity. Beside, we feel that this allegation would be more proper if at all while questioning the departmental inquiry. It is also clear from the averment^s that the Government has already sanctioned provisional pension to the applicant. This averment appears in para 6(iv) of the application. There is also a challenge^{to} of vires of the rules regarding recovery of pecuniary^M loss caused by the applicant saying that the rules on the subject are unconstitutional. The unconstitutionality is alleged on the ground that the All India Services (DCRB) Rules were liberalised in

(4)

the past on consideration of hardship and provision was made not to withhold the payment of gratuity if the penalty does not include recovery. ^{Presumably this is} ~~Presumably that~~ argument is tenable, applicant has to wait for the order of penalty and only when the order of penalty does not direct the recovery of pecuniary loss alone would right of the applicant to such gratuity arise.

5. For consideration as above, we find no merit for further consideration in the application. We hereby reject the same.


(S Santhana Krishnan)
Member(J)

M. M. Singh
(M M Singh)
Member(A)

*Mogera