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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 420 of 1991

Date of decision: 31. 3. 92

G. N. Jena

: Applicant

-Versus

Union of India and others

: Respondents

For the applicant

.... Mr. G.A.R. Dora, Advocate

For the respondents

.... Mr. D. N. Misra, St. Counsel

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not?
3. Whether His Lordships wish to see the fair copy of the judgment? Yes.

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For the Applicant Mr. G.A.R.Dora, Advocate

For the Respondents Mr.D.N.Misra, St. Counsel

CORAM :

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

JUDGMENT

K.P. ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to direct the Opposite Parties to release the retiral benefits, namely, Pension, Gratuity, Leave Salary etc. in favour of the Petitioner within a stipulated period with interest at the rate of 12 and $\frac{1}{2}$ per cent.

2. Shortly stated, the case of the Petitioner is that he was recruited through the Railway Service Commission as a Junior Clerk and joined on 11th January, 1957. After serving the Railway Administration in different capacities the Petitioner retired on superannuation with effect from 1st August, 1991, from the post of Office Superintendent (Gr. I)

Despite his retirement, since August, 1991, the retiral benefits due to the Petitioner not having been cleared, Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintain that due to the retirement of the Petitioner, he had to hand over charge ^{of} ~~in~~ the Store materials and during handing over charge, shortage to the tune of Rs. 9,65,421/- were detected. Due to shortage, instructions were issued to the Opposite Party No.2 to stop payment of all sorts of ^{retirement} ~~settlement~~ dues, payable to the Petitioner and such dues cannot be released unless the Petitioner satisfactorily accounts for the store materials which are said to be missing. The Petitioner not having performed his part of the duty, the retiral benefits have rightly not been released and the case being devoid of merits is liable to be dismissed.

4. I have heard Mr. G.A.R.Dora, learned Counsel appearing for the Petitioner and Mr. D.N.Misra learned Standing Counsel for the Respondents on the merits of this case. I have also perused the pleadings of the parties.

5. There is a *prima facie* allegation against the Petitioner regarding missing of the store materials which is bound to be explained by the Petitioner failing which consequences of law would follow against him. Ultimately if the disbursment of store materials ^{is} ~~are~~ not properly explained, the Departmental authorities would have a discretion to proceed against the Petitioner according to law.

and it would be well within the discretion of the Departmental authority to realise the amount from the gratuity money or order reduction of pension amount. Therefore, at this stage, it would not be just and proper to direct the Opposite Parties to release the retiral benefits of the Petitioner. However, if the Petitioner satisfactorily explains the missing store materials within three months from today and no dues are assessed over the Petitioner the Opposite Parties should release the retiral benefits of the Petitioner.

6. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

K. Mohanty
31-3-92
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.

