

14

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO 70 OF 1993

Date of decision: May 18, 1993

Shri Kulamani Swain ... Applicant

Versus

Union of India and Others ... Respondents

For the Applicant ... Mr. D. P. Dhalsamant, Advocate

For the Respondents ... Mr. Akshya Kumar Misra, Standing
Counsel (Central)

..

CORAM:

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? *Yes*
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

...

5

J U D G M E N T

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the Opposite Parties to grant retiral benefits to the petitioner and to pay interest on the retiral benefits because of the long delay in nonpayment.

2. Shortly stated the case of the petitioner is that he proceeded on leave on medical grounds after making over charge and ultimately sought for retirement on ^{the ground of} invalidation. The Petitioner was allowed to retire on invalidation with retrospective effect from 30th April, 1991 by the Respondent No.2 vide Memo No. Q-208/49 dated 24.5.1991. The Petitioner submitted his pension papers vide Annexure-1 dated 24th May, 1991. Petitioner has not been paid his pensionary benefits. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the Petitioner was in charge of stores and was having custody and control over lot of Government properties and while being relieved from the said post he did not hand over charge of certain properties entrusted to him. Hence the Telecom District Manager, Cuttack had addressed a letter to the petitioner Vide Annexure 2 asking him to hand over charge of the stores. There was no response from the petitioner

and therefore, pension of the petitioner has not been paid as yet because the authority will consider that if there is any material loss caused to the Government because of negligence and misconduct on the part of the petitioner, necessary action would be taken against him as contemplated under the law. Therefore, at present the case is devoid of merit and is liable to be dismissed.

4. I have heard Mr. D. P. Dhalsamant learned counsel appearing for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central). Mr. Dhalsamant learned counsel appearing for the Petitioner relied upon the judgments reported in 1989 (9) ATC 13 (C. Prasad Vs. State of Bihar and others). True it is in this judgment, the Patna Bench has held mere existence of certain allegations without formal charges does not constitute a disciplinary proceeding and therefore, the same has to be quashed. I have no dispute with this proposition of law but so far as the present case is concerned, the petitioner has been called upon to hand over full charge. He has not complied with the same. Law is well settled that when any officer of the Government has control and custody of Government properties, he is duty bound to explain

the manner of disbursement or in alternative of he must hand over all those properties. Similar is the observation of the Judgment reported in 1987 (3) ATC 441. The case is distinguishable because no steps were taken for recovery and therefore, the Division Bench of the Calcutta held that one cannot withhold the retiral benefits without taking necessary steps as contemplated under the law.

On the other hand Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central) relied upon a judgment reported in AIR 1988 SC page 842. In the said judgment Their Lordships were pleased to observe that the Government is competent to withhold or reduce the pension after giving necessary opportunity to the delinquent if there is allegation of misconduct negligence or financial irregularity committed by the Government servant.

4. In the present case, though formal charge-sheet has not been filed against the petitioner, yet ~~the~~ the petitioner has been called upon to explain

the manner of disbursement of the properties over which he had controlled and custody or in the alternative to hand over full charge of the properties. The petitioner not having done so, I feel there is full justification on the part of the concerned authority, not to have disbursed the retiral benefits to the petitioner.]

5. In such circumstances, I find no merit in this application which stands dismissed leaving the parties to bear their own costs.


18/5/93
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
18.5.93