

(C)

M/S. A. Rath  
A/c Rath

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A./T.A./B.A. No..... 8246 199

Akuli Chavan Samal ....., Applicant(s)

Versus  
Union of India & Ors. Respondent(s)

Sr. No	Date	Orders	Office note as to action (if any) taken on order
	7.11.96 14.11.96	REGISTER  Registrar	2 P.O. for Rs 50/- filed. B/ 7.11.96.
1	18.11.96	<p>In this application, the applicant is aggrieved against non-payment of cash equivalent of leave salary for E.L. at his credit on his retirement on 30.9.1995. He is also aggrieved against non-payment of dues under Central Government Employees Group Insurance Scheme (CGEGIS). The applicant worked as a Superintendent Group-B, in the Central Excise and Customs since 7.2.1983. He retired on superannuation on 30.9.1995. Disciplinary proceedings under Rule 14 of the CCA (CCS) Rules 1965 were initiated on 6.5.1994 by the Collector, Central Excise and Customs, Bhubaneswar. The reason for the disciplinary proceedings is the alleged failure on the part of the applicant to verify the genuineness</p> <p>For Regn. # T/11.96 S/o D/11.96 14.11.96 For Admn. please Bench.</p>	Registration 15.11.96

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
..1	18.11.96	<p>of a Modvat claim amounting to Rs.1,02,091/-.</p> <p>The matter was referred to the Commissioner of Departmental Enquiries (CVC) on 20.6.1994 to enquire into the matter. Preliminary inquiry was held on 26.8.1994 and the inspection of document was completed on 2.9.1994.</p> <p>In O.A.400/95, the applicant sought an early conclusion of the inquiry with a direction from the Court to file counter on 20.8.1995. Counter has been filed and the Original Application is pending for want of a Division Bench. Meanwhile, the Commissioner of Departmental Inquiries fixed date of regular hearing of the applicant to 5.9.1995 and 6.9.1995 by his order dated 7.8.1995. This intimation of the date of hearing was received by the applicant on 5.9.1995. Both the applicant and the defence counsel were sick and therefore, they sought an adjournment. Adjournment was refused and the CMI completed the inquiry on 20.9.1995. A representation was submitted by the applicant against the ex parte enquiry on 6.12.1995. The Commissioner of Central Excise by his order dated 11.9.1996 has been pleased to remit the case back to ..</p>	

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
..1	18-11-96	<p>C.D.I. for further inquiry and for submission of its report. It is in this background the applicant claims for payment of a cash equivalent of leave salary for EL at his credit and also the dues payable to him, under the C.G.E.I.S.</p> <p>Learned counsel for the applicant Shri A. Rath has brought to my notice a decision of the Patna Bench of the C.A.T in the case of S.M. Quashish V. Union of India &amp; Others (Swamy's case Law Digest) 1994/1 page 506 in which the Patna Bench has held that when departmental proceedings continue after retirement and considerably delayed, provisional pension to be paid as also PF balance and leave encashment which do not form part of pensionary benefits and as such should not have been withheld under Rule 6 of AIS(DCRB) Rules.</p> <p>Learned counsel for the applicant Shri A. Rath has stated that the respondents have withheld his gratuity, but paid his provident fund dues and a provisional pension. Encashment of leave salary is the equivalent of leave earned at his credit. <sup>15</sup> So also the CGEIS <del>are the</del> a statutory recovery during his service and its payment is statutorily governed.</p>	<p style="text-align: right;">(3)</p>

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
..1	18.11.96	<p>These two cannot be withheld <del>and</del> in this particular case. It was not the fault of the applicant in any way that the disciplinary proceedings have been kept pending <del>and is pending</del> as the narration of the evidence above amply demonstrate. On behalf of the Union of India Shri U.B.Mohapatra, Additional Standing Counsel is present and heard.</p> <p>In view of the above discussion, this Application can be disposed of at the admission stage by giving a simple direction to Respondents 2 and 3. Already the applicant has submitted a representation to Respondent 3 dated 5.3.1996. In view of this Respondent 3 in consultation with Respondent 2 shall release the amounts due to the applicant on account of leave salary encashment and Central Government Employees Group Insurance Scheme within a period of six weeks from the date of receipt of this order.</p> <p>The application is disposed of as above.</p> <p>Hand over copies of the orders to the counsel for both sides.</p> <p style="text-align: right;"><i>Amarsinh</i> MEMBER (ADMINISTRATIVE)</p>	<p>Free copy of the order dt. 18.11.96 may be given to the applicant's counsel &amp; sent to all respondents with O.A. copies by Regd. Post.</p> <p style="text-align: right;"><i>Patel</i> 20/11/96 S.O.</p> <p>Received copy of the order. <i>J. Ralat.</i> Adv 20/11/96</p> <p>Received copy of the order. <i>Wijayaratnam</i> Recd. 20/11/96</p>