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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.1163 OF 2004
Cuttack this the 09th day of Dec./ 2005

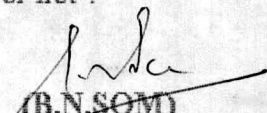
Karunakar MohantyApplicant(s)

-VERSUS-

Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? Yes


(B.N.SOM)
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO.1163 OF 2004

Cuttack this the 09th day of December'2005

CORAM:

THE HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

Karunakar Mohanty, aged about 61 years, S/o. late Nidhi Mohanty, resident of
Vill: Baniari, PS; Balichandrapur, Dist-Jajpur

...Applicant

By the Advocates :

M/s.N.C.Mohanty
C.R.Satpathy
P.M.Behera

-VERSUS-

1. Union of India represented by the Secretary, Department of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda
3. Director of Postal Services, Bhubaneswar, Office of the Chief Post Master General, Orissa Circle, Bhubaneswar, Dist: Khurda
4. Senior Superintendent, R.M.S., North Division, Cuttack

...Respondents

By the Advocates :

B.Dash, A.S.C.

ORDER

MR. B.N.SOM, VICE-CHAIRMAN :Karunakar Mohanty (applicant) a retired Sorting Assistant, R.M.S. (N) Division, being aggrieved by the decision of Respondent No.3 vide his order contained in Memo. No. LC/69-98/2003 dated 12.4.2004 (Annexure - 5) has approached the Tribunal in this Original Application under Section 19 of the Administrative Tribunals Act, 1985 for redress of his grievance.

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2. It is the case of the applicant that he had taken voluntary retirement from service with effect from 15.6.2001. The Respondents settled his retrial benefits after deducting an amount of Rs.45,015/- from his retirement Gratuity. Being aggrieved he had filed O.A. No.693/03 before this Tribunal. The said O.A. was disposed of by the Tribunal by its order dated 17.10.2003 directing the applicant to submit a representation before the disciplinary authority seeking relief to the effect that after dropping the charges in the disciplinary case initiated against him, there remained no case for realization of any amount from him or from his gratuity. Res. No.3, by his order dated 12.4.2004 rejected the same on the grounds, firstly, that the applicant was a defendant in a Money Suit No.248/95 in the Court of Addl.Civil Judge (Senior Division) Cuttack filed by the Life Insurance Corporation of India, in which the learned Court had passed an order that the defendants were jointly and severally liable to pay an amount of Res.30,726.40 with interest to the plaintiff. Against the aforesaid order, S.S.R.M. (N) Division, who was also one of the defendants, filed Money Appeal No. 2/2001 in the Court of District Judge, Cuttack. The said Money Appeal is now sub judice in the Appellate Court. Referring to Rule 71 of CCS (Pension) Rules, 1972, Res. No. 3 held that Govt. dues as ascertained and assessed by the Head of Office was liable to adjustment from retirement dues and in the circumstances, an amount of Res.45,014.00 as retrial benefits was deducted from his gratuity payable, because, the applicant had been held responsible for the loss of a Registered Letter containing a cheque worth of Res.30,726.40 from his custody sent by L.I.C. to a policy holder. The learned counsel for the applicant has hotly disputed that the amount claimed by LIC in



Money Suit No.248/95 does ~~not~~ come within the meaning of the expression "Govt. dues". To resolve the issue, I have referred to Rule 71 of CCS (Pension) Rules,1972. The expression "Govt. dues" has been defined therein as follows :

- "a) Dues pertaining to Govt. accommodation including arrears of license fee, if any;
- b) dues other than those pertaining to Govt. accommodation, viz., balance of house building or conveyance or any other advance, over payment of pay and allowance or leave salary or arrears of income tax deductible at source under the Income Tax Act 1961 (43/1960)".

3. From the above, it is clear that the recovery and/or adjustment is limited only to dues pertaining to Govt. accommodation, balance of house building or conveyance or any other advance or over payment of pay and allowance or leave salary or arrears of income tax and nothing more.

4. In the instant case the controversy involves an amount of Res.30,726.40 with interest that has been ordered to be recovered jointly and severally from the defendants, which includes the applicant herein arising out of a Money Suit filed by the LIC. It is the case of the Respondents that the order of recovery arising out of the Money Suit, is a legitimate Govt. dues in terms of Rule 71 of CCS (Pension) Rules, 1972. The applicant disputes the claim. From a reading of the expression "Govt. dues", I am of the opinion that Res. No.3, the disciplinary authority, has clearly erred in treating the decree in the Money Suit as Govt. dues. The plain meaning of the term "Government dues" is what an employee has to pay back to the Government. In this case, it is the undisputed fact that L.I.C. of India has filed a suit against the applicant in his individual capacity and has obtained a decree against the applicant, and

the Government, the employer of the applicant, has no connection with this case. Thus the decree, if and when executed, will be executable against the applicant and not the Government. On the other hand, for the purpose of recovery and adjustment under Rule 71, the Respondent-Department has to act only within the provisions of Rule-71(3) of the Pension Rules and as the decree passed in the Money Suit No.248/95 is only a personal liability of the applicant and Govt. is not in any way concerned with it, the disciplinary authority clearly erred in withholding Res.45,015.00 from the gratuity amount payable to the applicant.

5. In the result, as the amount was withheld without any authority, the Respondents are directed to pay the withheld amount immediately to the applicant along with interest admissible on Res.30,726.40 from the date the said payment was due to the applicant up to the previous month to the month in which the withheld amount will be paid by the Respondents.

6. With these observations and directions, the O.A. is disposed of.
No costs.


(B.N.SOM)
VICE-CHAIRMAN