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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A NO. 250 OF 2002
Cuttack, this the 3-11-2004

Sri Baidyanath Jena

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? 75
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 75


(B.N. SGM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A. NO. 250 OF 2002
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CORAM:

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

.....
Shri Baidyanath Jena, aged about 62 years, son of late Nilakantha
Maharatha, Plot No. 1330/C Markatnagar Bidanasi, Cuttack 14
..... Applicant

Vrs.

1. Union of India, represented through its Secretary,
Ministry of Home Affairs, New Delhi.
2. State of Orissa, represented through its Special Secretary,
General Administration Department, At/PO Bhubaneswar,
Dist. Khurda.
3. Accountant General, Orissa, At
Bhubaneswar, P.O/Dist. Khurda.
4. Secretary, Home Department, Government of Orissa,
Orissa Secretariat, Bhubaneswar, Dist. Khurda.

..... Respondents

Advocates for the applicant - Mr. D.P. Dhalsamant

Advocates for the Respondents - Mr. B. Dash, ACGSC.
& Mr. T. Das, GA(State)

.....

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Baidyanath Jena, a retired member of Indian Police Service
of IPS Cadre of Orissa, has filed this O.A. seeking the following reliefs:

"The applicant in the facts and circumstances above
humbly prays that this Hon'ble Tribunal may direct the

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Respondents for payment of final pension with gratuity and commutation etc;

And any other order/orders as deem fit and proper in the facts and circumstances above may be passed."

2. The case of the applicant is that when he retired from service with effect from 31.5.2000, there was no disciplinary proceeding pending against him. But he was not paid the retirement benefits, such as, gratuity, commuted value of pension, etc. It was only in the month of November 2001 he was informed that a vigilance case was pending against him on account of which retirement benefits payable to him were held up. He was, however, paid provisional pension by order dated 27.5.2000. He has also submitted that the Vigilance P.S. Case No.39 of 1990 was initiated in 1990. He has also submitted that another Vigilance P.S. Case No.23 of 1991 is pending against him. In the first case, the charge sheet was filed in 1997 and in the second, the charge was filed in 1999, after 9 years of institution of the case. His plea is that since no departmental case is pending against him and he was allowed to retire, his pensionary benefits should not have been stopped.

3. The Respondents by filing counter have disputed the facts of the case. They have stated that it was a wrong statement on the part of the applicant that when he retired in the year 2000 no disciplinary case was pending against him. The fact of the matter is that he was placed under suspension by Government order dated 25.6.1990 on certain criminal charges of corruption while he was in service. He was

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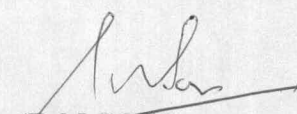
reinstated on 11.11.1992. That was followed by institution of two Vigilance P.S Cases, as admitted by him. Because of this action taken against him and the criminal cases pending against him, in terms of Rule 6 of All India Services (DCRB) Rules, 1958 and proviso to Regulation 3 of All India Services (CP) Regulations, 1959, he could have only been paid provisional pension and no other retirement benefits were payable.

4. I have heard the learned counsel for both the parties and have perused the records placed before me. On a perusal of the All India Services (DCRB) Rules, 1958 it is clear that the grievance of the applicant is not based on proper ground. For the sake of clarity I quote here-in-below sub-rule (2) of Rule 6 of the said Rules:

“(2) Where any departmental or judicial proceeding is instituted under sub-rule (1), or where a departmental proceeding is continued under clause (a) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be sanctioned by the Government which instituted such proceedings during the period commencing the date of his retirement to the date on which upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto date immediately preceding the date on which he was placed under suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereto.”

5. It has been admitted by the applicant that criminal proceedings are pending against him. It is also admitted by him that he is receiving provisional pension. In sub-rule (2) of Rule 6 of the AIS (DCRB) Rules, 1958 it is clearly laid down that no gratuity or death-cum-retirement

gratuity shall be paid to a pensioner against whom criminal proceedings are pending until the conclusion of such proceedings. The same is the provision with regard to the payment of commuted value of pension. In Regulation 3 of the All India Services (Commutation of Pension) Regulations, 1959 it is provided that a member of the Service /a pensioner against whom judicial or departmental proceeding has been instituted or continued under sub-rule (1) of Rule 6 of the Retirement Benefits Rules shall not be permitted to commute any part of his pension during the pendency of such proceedings. In view of the aforesaid provisions of law, the applicant is not entitled to the relief sought for by him and accordingly, this O.A. must fail and is dismissed. No costs.


(B.N. SOM)
VICE-CHAIRMAN

An/ps