

OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dt. 23.1.2004

Learned Counsel for applicant is present. On the prayer of Mr. A.K. Bera, 10.00.00 time is granted till 4.2.2004 to file counter as a last chance.

*[Signature]*  
23.1.04  
REGISTRAR

Counter not filed

4/2/04

*[Signature]*

Order dt. 4.2.2004

Learned Counsel for the applicant is present. Respondents are absent on call. No counter has yet been filed despite of availing several chances. No further time can be allowed.

Put up before Bench on 25.2.04 for further orders.

*[Signature]*  
4.2.04  
REGISTRAR

counter has not been filed.

For Orders,

*[Signature]*

On 25.2.04

Counter not filed for further orders

*[Signature]*

Order dated 23.5.2004

The applicant, a retired Headmaster of D.M.School, Regional Institute of Education (in short RIE) Bhubaneswar is before the Tribunal calling into question the propriety and legality of recovering from his gratuity as well as continuance of the disciplinary proceedings after his retirement. The applicant contends that after rendering service for about 35 years under the National Council of Educational Research and Training (in short NCERT) he retired as Headmaster, D.M.School, RIE, Bhubaneswar on 29.2.2000 and he was granted the following retiral benefits.

- |                               |              |
|-------------------------------|--------------|
| i) Monthly pension            | Rs.5910.00   |
| ii) Commuted value of pension | Rs.278291.00 |
| iii) Retirement gratuity      | Rs.272102.00 |

The payment of the aforesaid amount, was however, subject to settlement of outstanding advance drawn by the applicant while he was on deputation as Principal, Navodaya Vidyalaya, Belpada and finalization of disciplinary case in D.M.School, RIE, Bhubaneswar. His case is that even though he is getting monthly pension and commuted value of pension his retiral gratuity continues to remain withheld. The Respondents have contended that gratuity has been withheld as the advance taken by the applicant was outstanding against him in the books of Navodaya Vidyalaya and recovery of amounts due to the applicant is still pending.

After going through the facts of the case, I find that recoveries have been shown

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

On 10.3.04

Counter not

billed

for further order

L  
13/3

Bench

On 23.03.04

Counter has

not been billed

for further orders

L  
20/3

Bench

On 31.3.04

Counter has been

billed; copy has not

been sent

for further orders

L  
20/4

Bench

On 21.4.04

Respondent not  
billedL  
20/4

Bench

For hearing  
Chajander not billed

M. Bench

at the instance of internal audit and the applicant has furnished a detailed explanation in regard to the points raised by internal audit vide Annexure-3. In fact it is a reply to letter No.NVS/BPL/Audit/34/90/1951 dated 8.8.1990 from the Deputy Director, Navodaya Vidyalaya Samiti, Bhopal. Similar recoveries pointed out at the instance of internal audit have been shown against 18 Principals of Navodaya Vidyalayas all over the country. It is apparent from Annexure-8 that the amount shown against the applicant was further reduced and the applicant, expected to furnish explanations for the settlement of disputes which the applicant did not do as he had by that time retired. It is surprising that despite explanations having been furnished by the applicant in 1990, the matter continued to linger till 2003 and the retired official who had no access to refer to records was expected to furnish his explanation at this belated stage. From the records I cannot find any evidence that in fact these amounts to have been personally obtained by the applicant excepting a case of unadjusted outstanding advance, <sup>these two</sup> ~~hitherto~~ the figures cited are not variance. Matters relating to entries in the log book, journeys performed, shortage of stocks etc. are the matters which could be settled before the applicant retired and having furnished the first round of explanation which have not been specifically denied by the Respondents, there is no justification



7

On 21. 28. 5. 04

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counselor by  
both side  
19/7/04  
82

in enforcing it now after long years of retirement. In any case audit recoveries has a category of enforceable recovery could not stand the scrutiny of law unless these recoveries are finally decided with reference to the facts of the case and explanation of the person against whom these are to be enforced.

Similarly inquiry under Rule-14 of CCS(CCA) Rules, 1965 instituted after the applicant retired from service is again based on the findings of the audit and that constitutes the single article of charge. The amount in question is Rs.930/- that too the applicant is being held responsible for alleged embazzlement by the school cashier on the ground of laxity of supervision; and inquiry is sought to be conducted for imposition of a major penalty. The entire case smacks of not only irregular and irrational application of the disciplinary provisions it also speaks volumes ~~in about~~ <sup>disciplinary functions</sup> the manner in which the ~~functionaries~~ are being administered by the concerned Department.

I find no justification for withholding the gratuity amount of the applicant, for the reasons aforesaid and accordingly I direct the Respondents to release the same forthwith along with interest at the rate of 6% per annum payable to the applicant from the date of retirement till the date of actual payment. No costs.

12-1-20

( H.P.DAS )  
MEMBER (ADMINISTRATIVE)