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OA No.239 of 2008

Sk.Latifur Rahaman .... Applicant  
Versus  
Union of India & Others .... Respondents

Order dated: 23/02 /2010

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THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Applicant a retired Divisional Accountant (R&B) by filing this Original Application under section 19 of the A.T. Act, 1985 challenges the action of the Respondents in not releasing his Leave salary and gratuity after his retirement on 31.07.2004 although there has been no Disciplinary or Criminal case pending against him. Hence besides praying for release of the aforesaid dues, he also prays for payment of interest on the withheld amount.

2. Respondents filed their counter in which placing reliance on various provisions of the CCS (Leave) Rules, (Commutation of Pension) and DCRG Rules, it has been stated by the Respondents that authority is empowered to withhold any of the retirement dues in a case where disciplinary or criminal case is pending against a government servant. In the instant case, judicial proceeding was instituted against the applicant u/s 13(2) r/w 13(1) (C) (d) of PC Act for having caused financial loss to the Government to the tune of Rs.2,39,403. Charge sheet was filed by the SP Vigilance, Balasore against the applicant and five others before the Special Judge Vigilance, Bhubaneswar (TR Case N.396/07) and cognizance in the matter was taken in the said case on 9.9.2002 i.e. much before the retirement of the applicant. Therefore, in terms of Rule 69(C) read with Rule 9(6)(b)(1) of CCS (Pension) Rules, 1972 the DCRG amount and in term of Rule 4 of CS (Commutation of Pension) Rules, 1981 commuted value of pension of the Applicant, in exercise of the power conferred under Rule 9 of CCS (Pension) Rules, 1972 has been held up.

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Accordingly, Respondents have prayed for dismissal of this OA. No rejoinder has been filed by the Applicant.

3. Learned Counsel appearing for both sides have reiterated the stand taken in their pleadings and having given thoughtful consideration to the rival submissions of the parties perused the materials placed on record vis-à-vis Rules relied on by the Respondents. Pendency of the criminal case, as aforesaid, is not in dispute. Rule clearly empowers the authority to withhold the above dues in case of disciplinary or criminal case pending against a Government servant. Hence, I do not see any wrong in the decision making process of not releasing the dues claimed by the Applicant. Accordingly, this OA stands dismissed being devoid of any merit. No costs.

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)