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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 260/00129 of 2015
Cuttack, this the 18th day of March, 2015

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R. C. MISRA, MEMBER (A)

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Sk. Latifur Raheman,
aged about 72 years,
S/o Late Sk. Ramizuddin,
At- Pathan Mahala, PO- Gujidanda, PS- Bhadrak (Rural)
At present Retired Divisional Accountant (R&B) Division, Balasore.
...Applicant
(Advocates: M/s. S.K.Nayak, S.K.Sahoo, H.S.Behera)

VERSUS

Union of India Represented through
1. Principal Accountant General (A&E),
Odisha, Bhubaneswar.
2. Principal Accountant General (A&E),
Odisha, Puri Branch,
At/PO/Dist.- Puri.
... Respondents
(Advocate: Mr. S.Behera)

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ORDER (ORAL)

A.K.PATNAIK, MEMBER (JUDL.):

Applicant, who is a retired Divisional Accountant (R&B) Division,
Balasore since 31.07.2004, has filed this O.A. under Section 19 of the
Administrative Tribunals Act, 1985 with the following relief:

- (i)Respondent be directed to relapse DCRG amounting Rs. 2,14,434/- commuted value of pension withheld unutilized leave salary amounting rupees twenty five thousand and any other retirement has been held by respondents on the plea of Vigilance of appeal case is



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pending in the Hon'ble Court of Orissa against the applicant.

(ii) Any other relief.....”

2. The case of the applicant is that pursuant to some vigilance cases pending against him the pensionary benefits like DCRG, Commuted Value of Pension and Unutilized Earned Leave Salary was withheld by the Department. However, after acquittal from the vigilance cases bearing TR case Nos. 337 and 396 of 2007, he filed O.A. No. 211/2012 before the Tribunal and in pursuance of the order dated 15.03.2012 passed by the Tribunal in the O.A. Respondent No.1 released unutilized leave salary after withholding Rs. 25,000/- towards recovery against vigilance case. It has been stated that his DCRG and Commuted Value of Pension have also been withheld on the plea that an appeal has been filed before the Hon'ble High Court of Orissa but after more than 3 ½ years, no Appeal Case Number has been supplied to the applicant. On the above, background, the applicant has filed this O.A. with the prayers as aforesaid.

3. Heard Mr. D.K.Mohanty, Learned Counsel for the Applicant, and Mr. S.Behera, Ld. Sr. Central Govt. Panel Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

4. We find from the record that after passing of the order dated 15.03.2012 in O.A. No. 211/12 by this Tribunal, letter dated 30.04.2014 has been issued by the Respondents, which reads as under:

“.....Principal Accountant general (A&E) has been pleased to release the cash equivalent of un-utilized Earned Leave Salary after withholding an amount of Rs. 25,000/- in favour of Shri Latifur Reheman, DA (Retd.) so as to accommodate the implicated Govt. loss amount of Rs. 2,39,403/- in the Vigilance Appeal Case pending against Latifur Raheman before the Hon'ble Odisha High



Court over and above his entire withheld DCRG calculated to Rs. 2,14,434/-."

5. We did not find any scrap of paper in the O.A. to show that the applicant has approached the authorities against the aforesaid order. On our query to this extent, Ld. Counsel for the applicant submitted that no such application/representation has been preferred by the applicant against the order dated 30.04.2014. In our considered view, no impugned order has been issued by the Respondents and the applicant has filed this O.A. without availing the departmental remedy. Section 20 of the Administrative Tribunals Act, 1985 provides as under:

"20. Application not to be admitted unless other remedies exhausted -

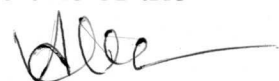
(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.


(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the




remedies which are available unless the applicant had elected to submit such memorial."

6. In view of the above, we are not inclined to entertain this O.A. at this stage. Accordingly, the same is dismissed. No costs.

7. Copy of this order be handed over to Mr. Behera, Ld. Sr. Central Govt. Panel Counsel appearing for the Respondents.


(R.C. MISRA)
MEMBER(Admn.)


(A.K. PATNAIK)
MEMBER(Judl.)

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