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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.52/2008

Date of decision: 10.08.2009

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

A.S. Sayed, S/o Mohd Ismail aged about 62 years, resident of House No. 14/49, Chopasani Housing Board, last employed on the post of Technical Officer in the office of the Defence Laboratory (DRDO), Ministry of Defence, Jodhpur.

: Applicant.

Rep. By Mr. J.K. Mishra &
Mr. A.K. Kaushik : Counsel for the applicant.

Versus

1. Union of India through Secretary to the Government of India, Ministry of Defence, Department of Defence Res. And Dev. Sena Bhawan, New Delhi 110 011.
2. The Director General Research and Development Organisation, Directorate of Personnel (Pers-I,) A Block, DRDO Bhawan, New Delhi 110 011

: Respondents.

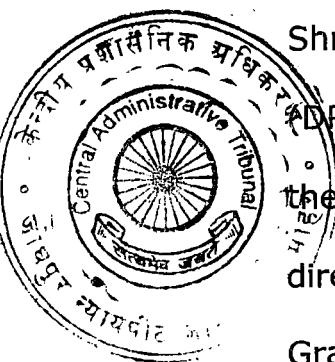
Rep. By Mr. M. Godara, Proxy counsel
For Mr. Vinit Mathur, : Counsel for the respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, Judicial Member.

This Original Application has been preferred on behalf of Shri A.S. Sayed, Technical officer in the office of Defence Laboratory (DRDO), Ministry of Defence, Jodhpur, Rajasthan for grant of relief to the effect that after allowing the O.A, the respondents may be directed to release the due amount of Death Cum Retirement Gratuity (DCRG for short) to the applicant or in the alternative to release 50% of the said DCRG amount with cost of the application.

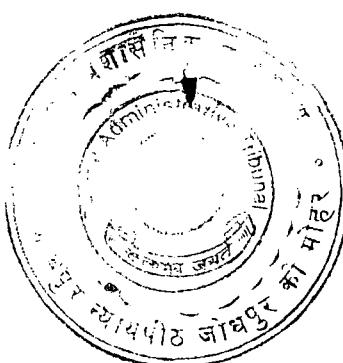
S.M.M. Alam



2. The brief facts of the case are as follows:

(a) The applicant was initially appointed to the post of Draftsman III in the Vehicle Research & Development Establishment at Ahmednagar and in due course he was promoted to the post of Technical Officer 'B' in Defence Laboratory at Jodhpur from where he retired on 30.09.2005 after attaining the age of superannuation.

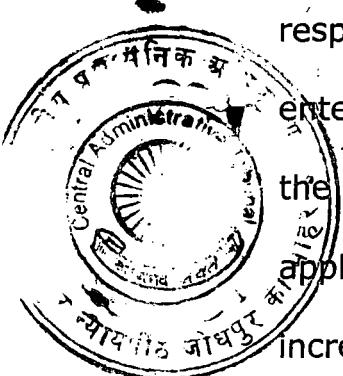
(b) One Smt. Amna Chhattari, who is the daughter-in-law of the applicant, lodged a false case against the applicant and his family members on 29.06.2000 and on that basis FIR No. 116/2000 was drawn in Mahila Police Station at Jodhpur. The applicant was arrested and detained in that very case and on that basis he was suspended, but later on the suspension was revoked as per the directions of the Hon'ble High Court of Rajasthan at Jodhpur passed in D.B (C) W.P. No. 266/2003. During the pendency of the criminal case the applicant retired from service and he was paid only the provisional pension without adding the increments of the suspension period. The other retiral benefits such as DCRG and commutation of pension have also not been released. The applicant sent lawyer's notice (Annex. A/1) to the respondents which yielded no fruit and by letter dated 14.03.2007 (Annex. A/2) he was informed that his case for pension can be finalized only after the conclusion of the judicial proceedings against him.



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(c) Further case of the applicant is that the criminal case filed by his daughter in law and the revision petition filed by him are still pending and in normal course, the revision petition would come up for hearing after about 5-6 years, which would mean the disposal of the criminal case as well as revision petition will take a long time and so under these circumstances withholding of the amount of DCRG is not justified. It has been further stated that the Bombay Bench of the Central Administrative Tribunal in the case of **P.R. Das vs. UOI and ors** [(1994) 28 ATC 799] has issued direction to the respondents therein for the release of 50% of the DCRG amount to the applicant therein. As the applicant's case is similarly situated, this Bench can very well issue a direction to the respondents to release 50% of the DCRG amount to the applicant.

3. On filing of the application notices were issued to the respondents and in compliance to the notice the respondents have entered appearance and filed their reply. In para 4.3. of the reply, the respondents have stated that all the terminal benefits due to the applicant had been paid to him as per rules except the grant of two increments for the suspension period since the same could be released on conclusion of the criminal cases pending against the applicant. It has further been stated that DCRG and commutation amount of pension have not been released to the applicant as per the provisions of Sec. 9 (4) & 69 (1) (C) of the Central Civil Services



(Pension) Rules 1972 (CCS (Pension) Rules for short) and Sec. 4 of the CCS (Commutation of Pension) Rules 1981.

4. During the course of hearing Shri J.K. Mishra, learned counsel appearing for the applicant submitted that the criminal case pending against the applicant is not related to the misconduct of the applicant in relation to his official duty. It is entirely independent of the official act and mainly concerned with the family dispute not affecting the public at large. He submitted that in such cases, withholding of DCRG is not justified. He further argued that if this Tribunal feels any difficulty in releasing the entire DCRG amount, then in the alternative this Tribunal is empowered to issue directions to the respondents to release at least 50% of the DCRG keeping in conformity with the decision of the Bombay Bench of this Tribunal in **P.R. Das case** (supra).

5. On the other hand, Mr. M. Godara, learned proxy counsel appearing on behalf the respondents submitted that as per provisions of Rule 9 (4) and 69 (1) (C) of CCS (Pension) Rules, 1972 and Sec. 4 (Commutation of Pension) Rules 1981, the applicant will not be entitled for release of DCRG amount and commutation of pension as criminal case of serious nature is pending against him and the applicant is facing departmental inquiry also.

6. In order to appreciate the rival contentions, I would like to reproduce the provisions as contained in Rule 9 (4) and 69 (1) (c) of the CCS (Pension) Rules, 1972:

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Rule 9 (4)

In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub rule (2) a provisional pension as provided in [Rule 69] shall be sanctioned.

Rule 69 (1) (c)

No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon:

7. Learned counsel appearing for the respondents relying upon Rule 69 (1) (c) of the CCS (Pension) Rules 1972 submitted that the order of withholding of DCRG is according to the rules applicable to the Central Government employees as judicial proceedings as well as departmental proceedings are pending against the applicant even today.

8. The learned counsel appearing for the applicant has also conceded and submitted that he would not dispute that the order of withholding of DCRG is in accordance with Rules but in view of the fact that after retirement the applicant is facing financial hardships and in similar circumstances the Bombay Bench of the Tribunal in **P.R. Das ' case (supra)** has issued directions to the authorities concerned for release of half of the DCRG and so on the basis of the above decision similar direction may be issued keeping in mind that after retirement the applicant is facing financial hardship and keeping in mind that criminal case pending against the applicant is not related to any misconduct or embezzlement of the government

money, rather the same is ⁶ independent of official duties of the applicant.

9. I have gone through the decision of the Bombay Bench of the Tribunal in **P.R. Das's** case (supra) and I am satisfied that keeping in mind the financial hardship which the applicant is facing after retirement similar order to release 50% DCRG can be passed in this case also.

10. In the result the O.A is allowed and the respondents are directed to release 50% of the DCRG amount to the applicant subject to furnishing a bond by the applicant that in case of conviction/any direction issued by the competent authority for recovery of the

amount paid to him he will deposit the entire 50% DCRG amount.

The respondents are further directed that order with regard to release of 50% DCRG amount shall be issued within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

S.M. Alam
10/8/09
[Justice S.M.M.Alam]
Judicial Member.

Jsv.

Received copy of order
O A N O 52/08
JMN
(As, SAVED)
Applicant.

Part II and III destroyed
in my presence on 8/7/2015
under the supervision of
section officer (1) as per
order dated 07/07/2015
Section officer (Record)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT JODHPUR

Original Application Number 52 / 2008

A S Sayed VS Union Of India And Ors

SYNOPSIS

SI. No.	DATE	BRIEF PARTICULARS
1. 20.9.67		The applicant was initially appointed to the post of Draftsman-III on dated in Vehicle Research & Development Establishment at Ahmednagar.
2. 30.9.2005		He retired from service as Technical Officer 'B' on attaining the age of superannuation.
3. 29.6.2000		His daughter-in-law Smt Amna Chhattari foisted a false case against applicant and two other family members and lodged an FIR No. 116/2000 in Mahila Police Station at Jodhpur.
4. 2005		Provisional pension granted. Other retiral benefits e.g. DCRG, Commutation of pension amount withheld.
5. 25.3.2006		A notice of demand of justice got issued through his counsel.
6. 6.12.2000		Criminal case/judicial proceedings pending against him is concerned, the Criminal Case No. 1248/2001 is pending before the Court of ACJ (J.D) 2 JM-7. The cognizance of offence under section 498-A and 406 of IPC was taken.
7. 3.9.2002		Cognizance was taken on additional charge for the offence under section 316 IPC on the application of complainant.
8. 3.9.2002,		The applicant and other accused therein have filed a revision petition No. 78/2002 Mohd Asharaf Vs. State, before the court of Additional Session Judge No. 1 Jodhpur, against the above order.
9. 15.1.2004.		The Hon'ble High Court was pleased to order transfer Criminal revision petition No. 78/2002 and be heard along with SB Cr. Revision Petition No. 855/2002 which was filed by the complainant for inclusion of number of additional charges.
10. 10.1.2006		The SB Cr. Revision petition No. 855/2002 was admitted on dated 7.11.2005 and the same has been directed to be listed for hearing in due course.

Dated. 21 Feb. 2008
Jodhpur

(J K MISHRA/A K KAUSHIK) ADVOCATES
COUNSEL FOR APPLICANT

Date of Presentation 21.2.08
On Receipt by Post B4 horz
Presented by Shri A. K. KAUSHIK
Office to Report On 25.2.08

THE CENTRAL
ADMINISTRATIVE TRIBUNAL
CAT, JODHPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT JODHPUR

ORIGINAL APPLICATION NUMBER 52 / 2008

A S Sayed VS UNION Of India And Ors

I N D E X TO OA

SI. No.	PARTICULARS	PAGES
1.	Original Application	1- 8
2.	Annexure A/1 Notice for demand of justice dt: 25.3.06	9- 11
3.	Annexure A/2 order dt: 17.3.07	12
4.	Annexure A/3 order dt: 15.1.04	13
5.	Annexure A/4 order dt: 10.1.06.	13
6.	Annexure A/5 copy of judgment dt 27.9.94.	15-20

Note: One extra set of paper book shall be submitted as and when so directed.

Arora A. K. (Adv.)
(J K MISHRA/A K KAUSHIK) ADVOCATES

Dated. 26.2.08

COUNSEL FOR APPLICANT

Jodhpur

Date of Presentation 21.2.08
On Receipt by Post 21.2.08
Presented by Shri A. K. KAUSHIK
Office to Report On 25.2.08

ASAR
C.A.T. JODHPUR