

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.356/2006
This the 21st day of August 2007

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

G.P. Chaturvedi, aged about 61 years, son of Sri Ram Adhar, Resident of Village Balharai, Post Nagwa, Via-Khorahansa, District Gonda.

...Applicant.

By Advocate: Shri Surendran P.

Versus.

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Postmaster General, U.P. Circle, Lucknow.
3. Director of Postal Services, Gorakhpur.
4. Superintendent of Post Offices, Gonda Division, Gonda.

By Advocate: Shri Z.A. Khan.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Heard both sides.

2. The applicant who retired on 30.4.2005 has filed this O.A. for release of gratuity with 12 % interest and also balance payment of salary for the suspension period w.e.f. 12.09.2000 to 24.5.2001, which was unnecessarily withheld by the respondents. The respondents have filed Counter Affidavit denying the claim of the applicant on the ground that a Criminal case in Crime No.263/2000 of P.S. Kotwali in District Gonda under Section 420, 467, 468, 471 IPC and 7/13 of Prevention of Corruption Act filed against the applicant and others, which is under investigation of CBCID. Thus, stated that

the applicant is not entitled for payment of gratuity under Rule-69 -C of CCS (Pension) Rules, 1972.

3. The applicant has filed Rejoinder Affidavit, denying the allegations of the respondents stating that mere investigation of a crime by CBCID Police against the applicant and others is not at all a ground to withheld the gratuity payable to him.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant while working as Senior Postal Assistant, Balrampur was placed under suspension by the Respondent no.4 on the ground that a Criminal case was under investigation against him. Against which, the applicant filed an appeal before the Respondent No.3 but in the meantime, the Respondent No.4 revoked the order of suspension with immediate effect vide order Dt. 24.5.2001 (Annexure-3). No charge sheet was issued against the applicant and without initiating any departmental proceedings, he was retired on 30.4.2005 on attaining superannuation and also by fixing provisional pension. Annexure-4 is the copy of such retirement order. It is also not in dispute that provisional pension was sanctioned @ Rs.5018/- w.e.f. 1.11.2005 till finalization of criminal case against him. Annexure-5 is the said order Dt. 7.4.2006. During this period, the applicant also made a representation to the respondents No.2 complaining ~~none~~ payment of pension payable, balance salary from 12.9.2000 to 24.5.2001 during suspension period and D.C.R.G alongwith interest @ 12 % per annum. But there was no response from the respondents, except fixation of

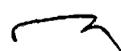


provisional pension under Annexure-5 Dt. 7.4.2006, hence filed the present OA.

7. It is the case of the applicant that there are no departmental proceedings pending against him and basing on the complaint by the 3rd party, the respondents are not justified to withheld his payments more particularly payment of D.C.R.G and balance of salary for the suspension period. The main objection of the respondents is that because of pendency of a criminal case, which is under investigation they are justified to withheld such payments of D.C.R.G and other amounts payable to the applicant and thus opposed the claim of the applicant.

8. Admittedly, on the ground of filing of criminal complaint against the applicant and others, the Respondent No.4 placed the applicant under suspension vide Memo Dt. 11.09.2000 and subsequently, he himself revoked the same by order Dt. 24.5.2001, during which, the balance of salary payable to the applicant was not paid even after his retirement on 30.04.2005 after attaining age of superannuation. The respondents authorities did not initiate any departmental proceedings against the applicant and without serving any charge memo, he was permitted to retire on 30.04.2005- but because of pendency of such criminal case, the respondents authorities sanctioned the provisional pension and the same has been paying to him.

9. Now, the claim in respect of payment of balance salary during suspension period w.e.f 12.09.2000 to 24.5.2001 and also D.C.R.G alongwith interest @ 12 % per annum, the respondents mainly relied under Rule 60-C of CCS (Pension) Rules, 1972 to substantiate their stand for withholding of D.C.R.G payable to the applicant.



10. But the provisions of Rule 69-C of CSS (Pension) Rules are applicable where departmental or judicial proceedings are pending but in the instant case neither the departmental nor judicial proceedings are pending against the applicant. Further mere pendency of a crime basing on the complaint by the 3rd party and pending investigation on such complaint by CBCID Police for the last seven years is not at all justified to withhold the payment of D.C.R.G and also balanced of salary payable during the suspension period w.e.f 12.09.2000 to 24.5.2001. Further even after retirement of more than 2 years, the respondents are not at all justified to withhold such payments on the pretext of pending investigation. However, pension of the applicant was not finalized because of pendency of crime against the applicant on the date of his superannuation and thus, settled only a provisional pension.

11. In view of the above circumstances, the applicant is entitled for payment of D.C.R.G alongwith admissible interest as per rules from the date of retirement and also balance salary payable for the suspension period from 12.09.2000 to 24.05.2001 and thus, OA is allowed directing the respondents to pay such amounts. No costs.

(M. KANTHAIAH)
MEMBER (J)

21-08-2007

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