

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 119/2006

This the 21st day of January, 2008

Hon'ble Shri Justice Khem Karan, Vice Chairman

Surya Bahadur Singh, aged about 67 years son of Sri Late Rajendra Singh, resident of 18/494, Indira Nagar, P.S. Gazipur, District- Lucknow.

Applicant

By Advocate: Sri G.S. Chauhan

Versus

1. Union of India through its Secretary, Ministry of Environment, Paryavaran Bhawan, 'B' Block, CGO Complex, Lodi Road, New Delhi.
2. The Govt. of Meghalaya, through the Chief Secretary to the Govt. of Meghalaya, Main Secretariat, Shillong.
3. The Principal Secretary to the Govt. of Meghalaya, Forest and Environment Department, Shillong.
4. The Commissioner and Secretary to the Govt. of Meghalaya, Forest and Environment Department, Shillong.

Respondents

By Advocate: Sri Q.H.Rizvi

ORDER

BY HON'BLE SHRI JUSTICE KEHM KARAN, VICE CHAIRMAN

The applicant is praying that the opposite parties be directed to implement the order dated 6.6.2001 (Annexure 1) as a whole and pay interest with normal rates on the post retiral benefits paid in September, 2000.

2. There is no dispute that the applicant retired on 31.7.97 from the post of Chief Conservator of Forests, Meghalaya. Vide order dated 18.8.2000 (Annexure 5), Govt. of Meghalaya imposed upon him a penalty of 'Censure', which he challenged before the Central Govt. by filing an appeal under Rule 16 (ii) of All India Services (Discipline and Appeal) Rules, 1969. By writing a letter dated 6.6.2001, the Central Govt. advised the State Govt. to rescind its order 18.8.2000 and restore all the retirement benefits, as under the relevant Rules of 1969, such a penalty of 'Censure' was not imposable on a retired employee. In compliance of these directions dated 6.6.2001 of the Central Govt., State of Meghalaya issued an order dated 29.7.2003 (Annexure 2), rescinding the impugned punishment of 'Censure' and directing restoration of all retiral benefits to the applicant. Applicant sent representation dated 17.9.2003 (Annexure 4) to the Govt. of Meghalaya, saying that its order dated 29.7.2003 was not in terms of order dated 6.6.2001 of the Central Govt. and proper course for the State Govt. was to rescind the entire order dated 18.8.2000 and not only its portion. Reference to Rule 20 of the Rules of 1969 was also made in this representation. Vide letter dated 14.2.2005 (Annexure 3), Govt. of Meghalaya informed the applicant that the order issued by it was as advised by Govt. of India in their letter dated 6.6.2001. It transpires from material on record that commutation of part of pension to the tune of Rs. 4,83,250/- could be encashed in October 2000 , part of gratuity , amounting to Rs. 1,69,803/- and leave encashment amount of Rs. 1,77,568/- could be encashed in

September, 2000. Applicant is claiming that order dated 18.8.2000 should be rescinded as a whole and not only 'Censure' part of it and the respondents be directed to pay him interest on the amounts so paid to him in September-October, 2000 after about 3 years of his retirement.

3. Govt. of Meghalaya has filed counter affidavit, narrating the circumstances leading to the imposition of punishment of 'Censure'. It has also been said that 100% provisional pension was authorized and DCRG amount of Rs. 1,80,197/- was paid to him on 30.8.97 and the delay in allowing encashment of leave, etc. occurred due to the time taken in concluding the pending proceedings.

4. Applicant has filed Rejoinder, saying that he is claiming interest on the amount that were paid to him in September-October, 2000, as there was inordinate delay in making the payments of those amounts. He has also attempted to show as to how the proceedings initiated against him were against the rules or as to how he was denied reasonable opportunity of hearing etc.

5. I have heard Sri G.S. Chauhan for the applicant and Sri Q.H. Rizvi for the respondents and perused the entire material on record.

6. Sri Chauhan has submitted that order dated 6.6.2001 of the Central Govt. in appeal filed by the applicant against order dated 18.8.2000 of the Govt. of Meghalaya, is clear on the point that the

State Govt. should rescind its order No. FOR. 60/97/207 dated 18.8.2000 and so in view of the Rule 20 of the Rules of 1969, the State Govt. had no discretion but to rescind its order accordingly. He submits whole of order dated 18.8.2000, should have been scrapped, in compliance of order dated 6.6.2001 of Central Govt. and not only the punishment portion of it. He has taken me through the Govt. of India's order dated 6.6.2001 and the order dated 29.7.2003 of the State of Meghalaya and also through Rule 20 of the Rules of 1969. If we read all these orders together, no fault could be found with the order dated 29.7.2003, which the State of Meghalaya has passed in compliance of the advice dated 6.6.2001 of the Govt. of India. What the Govt. has done is that it has referred to certain preliminary facts, such as issuance of memorandum of charges under Rule 8 of the Rules of 1969, written explanation of the applicant, report of enquiring authority (Justice T.C. Das, retired), notification No. For.60/97/207 dated 18.8.2000 and letter No. 12044/1/99-AVU, Govt. of India, Ministry of Environment and Forests dated 6.6.2002 (perhaps the date of order has wrongly been mentioned as 9.6.2002 in place of 6.6.2001), and thereafter, has rescinded the punishment of 'Censure' and has directed for restoration of all retiral benefits. I am of the view that since imposition of penalty of 'Censure' was not permissible under the rules, Central Govt. advised the State Govt. to rescind that order. It meant that the punishment should be taken back or should be undone. That the State Govt. has done. Grievance of the applicant that the order has not been complied with does not appear to be well founded. More so, the Central Govt.

has not viewed it as non-compliance of its direction dated 6.6.2001, So the prayer of the applicant for directing the respondents No. 2 and 3 to implement order dated 6.6.2001 cannot be accepted as it has already been implemented.

7. There is no dispute that the certain amounts as mentioned in para 11 of the Rejoinder were paid in September, -October, 2000, after more than 3 years of the date of retirement. I think, the applicant is entitled to interest @ 8% per annum from 1.8.97 to the date of actual payment. The explanation given by the respondents for late payment does not appear to be satisfactory.

8. So, the O.A. is finally disposed of with a direction to the respondents to ensure that the applicant is paid interest @ 8% per annum on amounts of Rs. 4,83,250 (commuted of part of pension), on 1,69,803/- (part of gratuity) and on 1,77,568 (leave encashment) from 1.8.1997 to the dates of actual payment. Payment of interest as directed above shall be made within a period of 3 months from the date, a certified copy of this order is produced before the respondent No. 2 and 3. No costs.

Sum
21.11.08
Vice Chairman

HLS/-