

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 115 of 2006

C O R A M

Hon'ble Shri Shankar Prasad, Member (A)
Hon'ble Ms. Sadhna Srivastava, Member (J)

S.N. Dubey

Vs.

Union of India and others

Counsel for the applicant : ^{Shri} K.B. Nath

Counsel for U.O.I. respondents : Shri S.K. Singh

Counsel for State of Bihar respondentss : Shri Shekhar Singh

12.04.2006

O R D E R (Oral)

By S. Prasad, M (A):-

Heard learned counsel for the parties. The applicant in this OA is an IAS Officer. He is a non FIR accused in CBI RC 38 (A) / 96 , RC 39 (A) / 96 and RC 45 (A) / 96. ^{As Chargesheet has been filed against him} The prosecution also appears to have been sanctioned in the aforesaid cases. The grievance of the applicant, who has since retired from the service, is that he has neither been paid his gratuity nor has been paid his leave encashment.

2. Section 3 of the All India Service Manual empowers the Central Government to frame rules to regulate the services of the All India Service Officers. *Dr*

3. The Central Government has framed All India Service (DCRG) Rules, 1958 to regulate the payment of death cum retirement benefits. Rule 6 contains provisions relating to recovery from the pension. Explanation (b) below rule 6 (1) provides that a judicial proceeding shall be deemed to be instituted in case of criminal proceedings, on the date on which a complaint is made or a charge sheet is submitted, to the criminal court.

Rule 6 (2) provides that where any departmental or judicial proceeding is instituted under Sub-rule (1) , then gratuity or death cum retirement benefits shall not be paid to him until conclusion of such proceedings and the issue of final order thereto.

4. In view of the above legal position, the claim for payment of gratuity is not maintainable.

5. As regards payment of leave encashment, ^{is} ~~is concerned~~, the learned counsel for the State Government has drawn our attention to Rule 39 of CCS (Leave) rules, 1972. The said rule, as substituted by Department of Per. & A.R. Notification, dated 1st October, 1983, provides that in case some money is recoverable from the government servants on conclusion of the proceedings against him, the authority may withhold the said amount , and on conclusion of the proceedings , he shall become eligible to the amount after adjustment of government dues, if any.

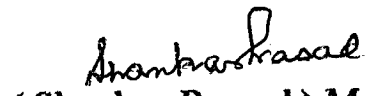
6. The applicant is an IAS ^{officer} and shall, accordingly, be governed by All India Service (Leave) Rules. The learned counsel ^{has not pointed out any} for the applicant ~~states that~~ no provision similar to the CCS

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(Leave) rules ~~exist in the IAS (Leave) rules, and accordingly, the~~
¹
~~amount has to be paid.~~

7. The learned counsel for the applicant submits that though the applicant has submitted representation in this regard, the respondents have not taken any decision.

8. We dispose of this OA by giving direction to the respondents to consider the sanction of leave encashment in accordance with the provisions contained in IAS (Leave) Rules, within two months from the date of receipt of this order. The OA is disposed of, accordingly, without any order as to the costs.


(Sadhna Srivastava) M (A)


(Shankar Prasad) M (A)

/cbs/