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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 429/89

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DATE OF DECISION 18.7.1991

Shri J.R. Khanna Petitioner

Mr. G.S. Walia Advocate for the Petitioner(s)

Versus

Union of India & Another Respondent

Mr. P.M. Pradhan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, VICE CHAIRMAN

The Hon'ble Mr. M.Y. PRICKLAR, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(M.Y. PRICKLAR)
MEMBER (A).

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

G.A.429/89.

Jawaharlal Roshanlal Khanna,
C/o. Mr.G.S. Walia,
Advocate High Court,
89/10, Western Railway Employees'
Colony, Matunga Road,
BOMBAY - 400 019.

.. Applicant.

v/s.

1. Union of India,
through
Central Board of Excise and
Customs,
New Delhi.

2. Collector of Central Excise,
Central Excise Building,
M.K. Road, Churchgate,
BOMBAY - 400 020.

.. Respondents.

CORAM : Hon'ble Shri Justice U.C. Srivastava, Vice Chairman
Hon'ble Shri M.Y. Priolkar, Member (A).

Appearances:

1. Mr.G.S. Walia
Advocate for the
Applicant.
2. Mr.P.M. Pradhan, Advocate
for the Respondents.

ORAL JUDGMENT

DATED: 18.7.1991

PER : Hon'ble Shri M.Y. Priolkar, Member (A)

The grievance of the applicant who retired on superannuation as Superintendent of Central Excise in Bombay is that his retirement dues viz. Gratuity and pension are being withheld pending decision in a criminal case filed against him which is going on since 1982. His other grievance is that he is not being allowed to cross the Efficiency Bar which was due on 1.5.1984. He retired on superannuation on 31.3.1988.

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2. The learned counsel for the applicant brought to our notice a judgment dated 8.12.1989 of the Principal Bench, New Delhi in the case of R.D. Kathuria v. Union of India and Others, 1990(13) ATC 890 in which in more or less similar circumstances, the Tribunal taking an overall view in the interest of justice, equity and fair play, directed part payment of the retirement benefits subject to an indemnity bond and depending on the final verdict of the court.

3. We are also inclined to take a similar view in this case. The criminal case is pending since 1982 and we do not know still how long it will take for a decision. Accordingly, we direct on the lines of the above said judgment of the Principal Bench, as follows:

(i) The respondents shall pay provisional pension to the applicant with effect from 1.4.1988 i.e. on his retirement after attaining the age of superannuation, on a regular basis till the conclusion of criminal case pending against him.

(ii) The respondents shall also pay to the applicant at least one half of the gratuity normally admissible, subject to his executing a bond of indemnity with two sureties to the effect that he will refund the amount to the Government in case the final verdict of court goes against him. The payment shall be made within two months from the date of receipt of indemnity bond.

(iii) The applicant will be allowed to commute at least one-half of one third of the pension which a government

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servant is entitled to commute under the CCS (Commutation of Pension) Rules 1981 subject to the condition that the applicant will execute a bond of indemnity together with two sureties as referred above.

(iv) The amount of commuted pension shall be released to the applicant within a period of three months from the date of receipt of necessary applications along with the indemnity bond.

4. The application is finally disposed of as above with no order as to costs.

M.Y. Priolkar

(M.Y. PRIOLKAR)
MEMBER (A).

U.C. Srivastava

(U.C. SRIVASTAVA)
VICE CHAIRMAN.