

28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1 of 1991

DATE OF JUDGMENT: 31.1.1991

BETWEEN:

Mr. Ch.Narayanacharyulu

Applicant

AND

1. The Branch Manager (Pensions),
State Bank of India,
Maharanipeta,
Visakhapatnam.
2. The Flat Officer Commanding-in-Chief,
Eastern Naval Command, Naval Base,
Visakhapatnam.
3. The Controller of Defence Accounts (Pensions),
Draupadi Ghat,
Allahabad.

.. Respondents

FOR APPLICANT: Mr. Ch.Narayanacharyulu, Party-in-person

FOR RESPONDENTS: Mr. E.Madan Mohan Rao, Addl. CGSC

CORAM: Hon'ble Shri B.N.Jayasimha, Vice Chairman
Hon'ble Shri J.Narasimha Murthy, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J.NARASIMHA MURTHY, MEMBER (JUDICIAL)

This is a petition filed by the petitioner for a relief to quash the objection dated 22.12.1990 raised by the 1st respondent under the Banker's lien and withholding the pension which is a fundamental right of the retired/dismissed

✓

.. 2 ..

employee and to grant the costs including TA/DA since he was made to file this case because of stopping the pension illegally. The contents of the petition are briefly as follows:-

The applicant was a permanent government servant in Eastern Naval Command, Visakhapatnam. When he was working as U.D.Clerk, after completion of 30 years of qualifying service, he was issued with an order of suspension vide No.CE/9103/7 dated 10.7.1985. Thereafter he was issued with a charge memo No.CE/9103/7 dated 9.10.1985 under Rule 14 of CCS (CCA) Rules, 1965. Against the suspension, he filed O.A.No.514 of 1987 and the Hon'ble Tribunal passed an order that the suspension should be revoked. Pursuant to the directions, the suspension has been revoked vide Order No. An CE/9103/7 dated 27.9.1987. Enquiry has been conducted against the charge memo and finally the petitioner was dismissed from service w.e.f. 28.2.1990 vide order No.CE/ 9103/7 dated 27.2.1989 of the 2nd respondent without giving him a reasonable opportunity of raising the objections on the Enquiry Officer's report. In the order of dismissal, vide para 13, the said authority also sanctioned compassionate allowance as per Rule 41 of the CCS (Pension) Rules, 1972. Accordingly 2/3rd pension and gratuity was sanctioned to the petitioner. The 2nd respondent, however, implemented the order of dismissal but not implemented the sanction order of compassionate allowance. The applicant filed O.A. before this Tribunal claiming for implementation of Para 13 of the order dated 27.2.1989. The Hon'ble Tribunal directed the respondents therein to implement the sanction order of compassionate allowance within one month of the order. Accordingly, the petitioner was paid with pension through 

.. 3 ..

the State Bank of India, Maharanipeta, Visakhapatnam in which Bank he opened an Account No. Pen.3/494. Meanwhile, the O.A. No.171/89 which was filed against the illegal dismissal was disposed of quashing the penalty of dismissal since he was not allowed to represent against the Enquiry Officer's report before imposing the punishment of dismissal. In the Judgment, the Hon'ble Tribunal gave an opportunity to the respondent by remitting the case to him stating that the petitioner should be allowed to raise objections within 15 days of receipt of the judgment and within two months of receipt of the objection on Enquiry Officer's report, a final decision should be given. He was allowed to represent against the Enquiry Officer's report and then once again the 2nd respondent dismissed the petitioner from service vide order No. CE/9103/7 dated 21.3.1990. Vide Para 26 of the above order, the Respondent also sanctioned 2/3rd pension and gratuity as compassionate allowance equally as done in his previous order dated 27.2.1989. The petitioner filed O.A.No.303/90 before this Tribunal praying for implementation of Para 26 of the order dated 21.3.1990. By an interim order in the O.A.No.303/90, the Hon'ble Tribunal while admitting the case ordered to implement the Para 26 of the order dated 21.3.1990 within one month of the date of the interim order of the Tribunal. Thereafter, pension and gratuity was sanctioned against his previous Account No. Pen/494 and delivered the order to the State Bank of India, Maharanipeta, Visakhapatnam vide PPO No.C/Navy/134/90 dated 2.5.1990, sanctioning a sum of Rs.442/- per month, a sum of Rs.14,560/- as Gratuity and a sum of Rs.20,692/- as Commuted pension. After commutation of pension, a sum of Rs.295/- has been sanctioned as a basic pension. ~~xxxxxxxx~~ The recoveries shown in the PPO were for a total sum of Rs.28,887=10 towards HBA/EOL/LTC. Pension stated to be paid is Rs.295/- per month.

because of commutation whereas the commutation of pension in toto was deducted towards the recoveries and not paid. At that stage the petitioner filed O.A.No.454/90 for a declaration that recovery of commutation of pension was illegal. The respondent thereafter accepted that the recovery made in commutation of pension was illegal and the said commutation of pension has been released completely by the P.D.O., on 28.7.1990. The PDO i.e., the State Bank of India, Maharanipeta, Visakhapatnam though declared that the recovery of commutation of pension illegal, refused to pay the same since the CDA(P), Allahabad, the 3rd respondent, recovered the same in the PPO. At that stage, the 1st respondent refused to pay the pension issued under PPO No. C/Navy/134/90 on Account No.Pen.3/494 and compelled him to open another Account No.Pen.4/544 and started paying the pension on that account leaving the Account No.Pen.3/494 in existence. The petitioner was drawing pension from both the accounts. According to him, pension was not paid to him correctly as per the orders of the sanctioning authority. The total suspension periods of 40 months has not been counted towards qualifying service. The grievance of the petitioner is that now the 1st respondent is not paying the pension and he sought a direction to the 1st respondent to pay him the pension.

2. The respondents did not file any counter in this matter.

3. Shri Ch.Narayananacharyulu, applicant in person and Shri E.Madan Mohan Rao, Addl. CGSC on behalf of the respondents argued the matter. The petitioner states that he opened two accounts viz., Pen.3/494 and Pen.4/544 and drew some amounts from both the accounts. The letter dated 22.12.1990 addressed to the petitioner by the State Bank of India, Maharanipeta,

Visakhapatnam reads as follows:-

"16. Since your pension has been drawn by you from two accounts the withdrawal of pension has been withheld for recovery of excess amount paid."

Shri Madan Mohan Rao states that the petitioner drew excess amounts from his two accounts and that fact was found out by the Inspecting Officer, Reserve Bank of India and he intimated the same to the Bank authorities not to pay the pension. On account of the orders of the Reserve Bank of India, the pension was held up and for the recovery of the pension, this petition was filed against the Bank authorities. The petitioner stated that the Bank authorities may be directed to pay the amounts to him as they have no right to withhold his pension. It is true that the Bank cannot withhold his pension but the fact is that the petitioner overdrew some amounts from his two accounts. On account of that mistake, the Bank authorities stopped paying the pension to the petitioner on the directions of the Reserve Bank of India. Moreover, it is a case filed against a Bank Officer to direct him to pay the pension but this Court has no jurisdiction to proceed against a Bank Officer. So, the petition cannot lie against a Bank Officer. We direct the petitioner to approach a proper court for relief but not this Tribunal which has no jurisdiction over the Bank authorities. Accordingly the petition is disposed of. No order as to costs.

B.N.Jayasimha
(B.N.JAYASIMHA)

Vice Chairman

M.S.
(J.NARASIMHA MURTHY)
Member(Judl.)

Dated: 31.1.91

Deputy Registrar
412641
Deputy Registrar