

List of Papers in Original Application No.

125/92

Sl.No.Of
Papers.

Date of Papers
Or
Date of Filing.

Description
of Papers.

part I

29-7-94 . Original Judgement

14-2-92 O.A. & Meterial Papers.

23-6-92 Counter

Reply Counter

PART I,

PART II,

PART III
Destroyed.

23/3/99

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA.No. 125 / 1992

a) Applicant (s) G.S. Musthy
Versus

b) Respondents Chief Commissioner of I.T., H&D & another

Sl.No	Description of Documents	Page No.
	Order Sheet	1 to 4.
	Original Application	5 to 12
	Material Papers	13 to 16.
	Order Dated.	—
	Counter Affidavit	17 to 20
	Reply Affidavit	—
	Order dt. 29/7/94.	21 to 23.
	Duplicate Order Sheet	
	" Application	
	" Material Papers.	
	" Order dt.	
	" Counter Affidavit	
	" Reply Affidavit.	
	" Order dt.	
	Vakalat	
	Notice Papers	
	Memo	

Central Administrative Tribunal

HYDERABAD BENCH

O.A. No./T.A. No.19

.....Applicant (s)

Versus

.....Respondent (s)

Date	Office Note	Orders

OA 125792

①

Date	Office Note	Orders
4.2.93		<p>Attorney requests a copy of the counsel opinion 15.2.93</p> <p><i>[Signature]</i> MUNES VC</p> <p><i>[Signature]</i> HARRIS VC</p>
29.7.94		<p>Judgement delivered. The OA is dismissed. No costs. Orders vide separate sheets.</p> <p><i>[Signature]</i> HARRIS MCA</p> <p><i>[Signature]</i> HARRIS VC</p>

Central Administrative Tribunal

HYDERABAD BENCH

O.A. No./F.A. No. 125/92.....19

.....Applicant (s)
Versus

.....Respondent (s)

Date	Office Note	Orders
<u>21.1.93</u>		<p>Heard Mr. G.V.R.S. Varaprasad Counsel for the applicant for passing order of Mr. N.R. Devraj S. for the deposition in part.</p> <p>him for further arguments on 28.1.93 as given per heard case.</p> <p>T.C.M. H.C.M. J.O.</p>
<u>28.1.93</u>		<p>Mr. G.V.R.S. Varaprasad, for the applicant and Mr. N.R. Devraj, for the respondents are present and are heard.</p> <p>The facts of this OA would disclose that the applicant ^{while} who was working as Assistant Commissioner of Income Tax, disciplinary proceedings had been initiated while in service and that the same had been continued as after ^{his} retirement. The present OA is filed on behalf of ^{the} applicant seeking a direction to the respondents to pay him the amount of gratuity due to the applicant together with interest.</p>

(P.T.O.)

(2)

(6)

OA-125/92

Date	Office Note	Orders
28.1.93 Contd. - - -		<p>Mr. Vava Prasad relies on AIR 1990 SC 1923 (Dr. Kapoor vs. Union of India) and contends that <u>in</u> this type of cases after the retirement of Govt. servant against whom the disciplinary enquiry had been initiated while in service and it is continued after retirement, that the Govt. servant has a right to be paid the gratuity. But the Mr. M.R. Derraji relies on Rule 9(u) and 69(c) of the C.C.S pension Rules and contends that the respondents have got a right to withhold the payment of gratuity in this type of cases and further contends that the said judgement of the Supreme Court is deliver without reference to the provisions of C.C.S Pension Rules of Rule 9(u) and 69(c) of the said Pension Rules and as it is a judgement per incuriam that the same will not be apply to the facts of this case. In view of the legal position involved in this case with this OA on 12.2.93 before Division Bench for final hearing.</p> <p>T. C. N.</p>

HCSO
n(5)

OA 125/92

(3)

Date	Office Note	Orders
8-6-92		<p><u>Contd from pre-page</u> <u>8-6-92</u></p> <p>failed to come up with the counter.</p> <p>This case is posted at the request of Mr. N. Bhaskara Rao for admission hearing on 30-6-92 on which date, counter or no counter, a decision will be taken on admission.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p><u>N</u> HRBS N(A)</p> </div> <div style="text-align: center;"> <p><u>W</u> HCJR N(J)</p> </div> </div>
25-6-92	<p>Counter and memo of App. filed by Mr. Naram Bhaskara Rao, dtd. 24.6.92 on 23/6/92.</p>	
30-6-92		<p>Sri Chakravarthy represent Sri. G.V.R.S. Varaprasad, Counsel for the applicant is present. Sri N. Bhaskara Rao, Counsel for the respondent is present and he is ready. Mr. G.V.R.S. Varaprasad wants time to file a rejoinder. 3 weeks time is granted. List the case for admission hearing on 20-7-92.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p><u>N</u> (HRBS) N(A)</p> </div> <div style="text-align: center;"> <p><u>W</u> (HCJR) N(J)</p> </div> </div> <p>When this case was called Mr. N. Bhaskara Rao sought for an adjournment. List this case for admission hearing on 22-7-92.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p><u>W</u> (HRBS) N(A)</p> </div> <div style="text-align: center;"> <p><u>W</u> (HCJR) N(J)</p> </div> </div>

Date	Office Note	Orders
22/7/92		<p>Admilt. Sri N. Bhaskara Rao, learned counsel for the respondents stated that the counter filed opposing the admission can be adopted for the main OA. also. Since the pleadings are complete and the case is ripe for hearing. Hence list the OA for final hearing on 14-9-92.</p> <p style="text-align: right;"> <i>(HRBS)</i> <i>M(A)</i> </p> <p style="text-align: right;"> <i>(HCR)</i> <i>M(J)</i> </p>
14.9.92		<p>When the case was called, there was no representation from the applicants side. List the case on 27-10-92</p> <p style="text-align: right;"> <i>(HRBS)</i> <i>MCAJ</i> </p> <p style="text-align: right;"> <i>(HCR)</i> <i>M(J)</i> </p>
27.10.92		<p>At the request on behalf of applicants counsel postponed 6.11.92</p> <p style="text-align: right;"> <i>(HRBS)</i> <i>MCAJ</i> </p> <p style="text-align: right;"> <i>(HCR)</i> <i>M(J)</i> </p>
11/1/93		<p>At request of applicants Counsel list this case on 21.1.93.</p> <p style="text-align: right;"> <i>(HRBS)</i> <i>MCAJ</i> </p> <p style="text-align: right;"> <i>(HCR)</i> <i>M(J)</i> </p>

Central Administrative Tribunal

HYDERABAD BENCH

O.A. No. / T.A. No.

125/1992

S. G. Sreenivasulu Reddy

Applicant (s)

Versus

The Chief Commissioner of T.T. A.P. Hyd 2 and others

Respondent (s)

Date	Office Note	Orders
17.2.92.		<p>Mr. G.V.R.S. Varaprasad, Advocate for the applicant- in MA 189/92 and Mr. N. Bhaskar Rao, Advocate for the respondents in MA 189/92.</p> <p>MA 189/92 is moved by Mr. G.V.R.S. Varaprasad to condone the delay of one month in filing the OA. Heard both sides. The delay of one month in filing the OA is condoned.</p> <p>Issue notice to the respondents for admission hearing and list this OA on 10-3-92. As the matter is likely to be decided at the admission stage itself, the respondents may produce ^{be ready} and ready with the relevant material ^{in this OA} on the said day.</p> <p style="text-align: right;">T. C. Narayana (HTCSR) M(J)</p> <p>Sri G.V.R.S. Varaprasad, Advocate for the applicant and Sri N. Bhaskar Rao, counsel for the respondents are present and heard. Sri Bhaskar Rao, requests for six weeks time for filing counter, Hence list this OA for admission hearing on 10-6-92. The respondents are at liberty to file their counter opposing admission.</p>

AIR 1990 (SC) 1923.

10-3-92.

12/18/2

(P.T.O.)

04 125/92

(4)

(2)

Date	Office Note	Orders
		<p>1209 to 2-6-92 with a copy to the counsel for the applicant. we make it clear that if for any reason the respondents do not file the counter, the matter will be finally heard and decided at the admission stage itself.</p> <p style="text-align: center;"> P (RBS) n(4) </p> <p style="text-align: center;"> T. C. N (TLC) n(5) </p>
16-4-92.	<p>traveler still</p>	<p>At the request of Sro Naram Bhaskar Rao, learned counsel for respondents, list the case for admission on 8-6-92.</p> <p style="text-align: center;"> P (HRS) n(4) </p> <p style="text-align: center;"> (HTCR) n(5) </p>
8-6-92		<p style="text-align: center;"><u>8-6-92</u></p> <p>In this case, despite notice being given as early as in February, 1992 and despite several chances, and time given to the Respondents, the Respondents have miserably</p> <p style="text-align: right;">Contd ---- 3</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

ORIGINAL APPLICATION NO. 125 OF 1992

Shri G. Jee Hanamanty Applicant (s)

Versus

Chief Commissioner of Income Tax, Hyderabad
& another

Respondent (s)

This Application has been submitted to the Tribunal by

Mr. G. V. R. S. Vora Mesech Advocate

under Section 19 of the Administrative Tribunal Act, 1985 and same has been scrutinised with reference to the points mentioned in check list in the light of the provisions contained in the Administrative Tribunal (Procedure) Rules, 1987.

The Application has been in order and may be listed for admission on 28/2.

[Signature]
Scrutiny Officer.

Deputy Registrar (J)

Particulars to be examined	Endorsement as to result of examination
8. Has the index of documents been filed and has the paging been done properly ?	N/C
9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?	Y
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?	Y
11. Are the application/duplicate copy/spare copies signed ?	Y
12. Are extra copies of the application with annexures filed.	
(a) Identical with the original	Y
(b) Defective	
c) Wanting in Annexures	Z
No...../Page Nos.....?	
d Distinctly Typed ?	
13. Have full size envelopes bearing full address of the Respondents been filed ?	Y
14. Are the given addresses, the registered addresses ?	Y
15. Do the names of the parties started in the copies, tally with those indicated in the application ?	Y
16. Are the translations certified to be true or supported by an affidavit affirming that they are true ?	N/C
17. Are the facts for the case mentioned under item No. 6 of the application.	
(a) Concise ?	Y
(b) Under Distinct heads ?	Z
(c) Numbered consecutively ?	
(d) Typed in double space on one side of the paper ?	Y
18. Have the particulars for interim order prayed for, stated with reasons?	Y

may be the
14/2

1. Is the application Competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?

If not by how many days is it beyond time ?

His sufficient cause for not making the application in time, stated ?
4. Has the document of authorisation / Vakalat name been filed ?
5. Is the application accompanied by B.D./I.P.O. for Rs. 50/-? Number of B.D. / I.P.O. to be recorded.
6. Has the copy/copies of the order (s) against which the application is made, been filed ?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ?

(b) Have the documents referred to in (a) above duly attested and numbered accordingly ?

(c) Are the documents referred to in (a) above neatly typed in double space ?

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH.

INDEX SHEET.

O.A. No.:

125/ 1992

CAUSE TITLE G. Sreerama murthy

VERSUS

The Chief Commissioner of Income Tax, A.P. Hyd. District

Sl. No.	Description of Documents.	Page No
1.	Original Application	1-7
2.	Material Papers.	8 - 11
3.	Vakalat	1
4.	Objection Sheet	1
5.	Spereare Copies	TWO
6.	Covers.	TWO.

By a direction to the Respondent to pay the amount of gratuity about
the Applicant's interest.

GENERAL

Single members

Counsel
(GTC)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

O.A. No. 125 OF 1992.



Between:

G. Sreerama Murthy,
S/o G. Venkat Reddy,
Asst. Commissioner of
Income-Tax (Retired)

Applicant.

Room No. 110, 1st Floor,
4-1-873, Tilak Road,
Abids, Hyderabad.

And.

- 1) The Chief Commissioner of Income-Tax, Andhra Pradesh, ... Respondent.
Aayakar Bhavan, 8th Floor,
Basheerbagh, Hyderabad.

- 2) Central Board of Direct Taxes, Rep. by its Secretary
North Block, New Delhi.

I N D E X

S.No.	Description of the Document relied upon.	Page No.
1.	Application along with Chronology of events.	1 to 8
2.	Chief Commissioner's letter dtd. 3.1.91 in Con. 28/83/Vol. II.	9
3.	Applicant's representation dated 30th November, 1990 to the Chief Commissioner of Income-Tax, A.P. Hyderabad.	10

Hyderabad.

Dt. 13.2.1992.

SIGNATURE OF THE
APPLICANT.

COUNSEL FOR THE APPLICANT.

Received
At New Delhi
for N. Bhaskar Rao
CGSC 9/4/92

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

O.A. NO 125 OF 1992.

Between:

G. Sreerama Murthy, .. Applicant.
S/o G. Venkat Reddy,
Assistant Commissioner of Income-Tax (Retired)
Room No. 110, First Floor, 4-1-873,
Tilak Road, Abids, Hyderabad.

And

- 1) The Chief Commissioner of Income-Tax,
Andhra Pradesh, Aayakar Bhavan, .. Respondent.
8th Floor, Basheerbagh, Hyderabad.
2) *Central Board of Direct Taxes, Rep. by its Secretary,
North Block, NEW DELHI.*

DETAILS OF THE APPLICATION:

1. The applicant is Sri G. Sreerama Murthy,
S/o Sri G. Venkat Reddy, Hindu, aged about 60 years,
R/o Room No. 110, First Floor, 4-1-873, Tilak Road,
Abids, Hyderabad.

ADDRESS FOR THE SERVICE OF NOTICES ETC.

The address of the applicant for service
of all notices, processes etc., is that of his
counsel Sri G.V.R.S. Vara Prasad, Advocate, 113/3RT,
Vijaya Nagar Colony, Hyderabad.

2. PARTICULARS OF THE RESPONDENTS

The particulars of the respondent, ^{are} ~~is~~ the same as in the cause title. The address of the respondent, for service of all notices, processes etc. is the same as shown in the cause title.

(F)

...2...

3. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

The application is made aggrieved by the letter dated 3.1.1991 of the ^{first} respondent in No. Conf 28/83/Vol. II rejecting the request of the applicant in so far as it relates to payment of gratuity.

4. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal as laid down in Sec. 14(1) (b) of the Administrative Tribunals' Act, 1985.

5. LIMITATION: 0/21.

It is submitted that the impugned letter is dated 3.1.1991 received by the applicant on 13.1.1991. Separate application is filed to condone the short delay in filing the O.A.

6. FACTS OF THE CASE:

a. It is submitted that the applicant joined Income Tax Department as U.D.C. on 17.3.1959. He was appointed as Inspector of Income Tax in the Income Tax Department in the Direct Recruitment Quota and joined as such on 30th January, 1960. The applicant was promoted as Income Tax Officer, Group 'B' w.e.f. 18.8.1969 and there-after he was appointed as Income Tax Officer, Group 'A' with effect from 21.9.1982. It is humbly submitted that while the applicant was working as Assistant Controller of Estate Duty at Kakinada, the Officers of the Central Bureau of Investigation conducted

...3.

(8)

...3...

a raid at his house on 2/3.10.1983. It is submitted that the raid did not result in any recoveries. The applicant was placed under suspension w.e.f.22.4.88, after nearly 4 and half years of the raid. The applicant was subsequently reinstated to duty with effect from 21.7.1988 by virtue of the Interim Order of the Central Administrative Tribunal in O.A. 432 of 88 dated 19.7.1988. The O.A. was ultimately dismissed by ~~the~~ a judgement dtd.26.12.89 and thereafter the applicant filed S.L.P. in the Supreme Court and the Supreme Court directed statusquo. The applicant was served with a charge memo on 28.9.90 initiating disciplinary proceedings against him on the alleged ground of pocessing dis-proportionate assets. It is humbly submitted that the Departmental enquiry into the same is still pending. The applicant retired from services on 30th Sept,1990 on attaining the age of superannuation, while he was working as Assistant Commissioner of Income-Tax(InvX, Visakhapatnam.

b. It is submitted that the C.B.I. filed a charge-sheet against the applicant in the court of the Special Judge for C.B.I. cases at Visakhapatnam, on 1.9.1987 which was returned for re-submission after complying with some objections. The charge-sheet was re-submitted on 11.4.1989 and the applicant herein was discharged by an order dated 19.1.1990 in Criminal M.P. No. 98 of 89 in C.C. No.61 of 89 of the Special Judge for C.B.I. cases at Visakhapatnam., on the ground that the sanction obtained without affording reasonable opportunity to the accused to explain away his assets is not valid.

....4..

(P)

...4....

Thereafter, a fresh charge-sheet was again filed by the C.B.I. before the Special Judge for C.B.I. cases at Visakhapatnam and the same is pending.

c. It is humbly submitted that the applicant made a representation to the ^{first} respondent on 30.11.90 (Annexure-II) requesting the respondent to draw the full pension and also pay him the other benefits like computation of pension, gratuity etc. In response to the above, the applicant was issued with a letter in Con. 28/83/Vol.II, dated 3.1.1991 of the respondent ^{no.1} stating that the request for grant of full pension, gratuity etc. cannot be ~~al~~ceeded to at this stage because of the provisions contained in Rule 69 of C.C.S.(Pension) 1972.

d. It is humbly submitted that the action of the respondent in rejecting the request of the applicant relating to payment of gratuity is highly illegal, arbitrary, unjust~~ice~~ and contrary to the Rules for the following among other grounds:

- i. The respondent failed to see that the applicant is an Officer belonging to All India Services and as such the C.C.S. Pension Rules 1972 are not applicable to the applicant's case, as per Rule 2(e) of the C.C.S. Pension Rules 1972.
- ii. The respondent failed to see that even if the charges were ultimately proved against the applicant, the gratuity cannot be with-held.

...5...

(16)

...5...

iii. The respondent ought to have seen that the All India Services (Death-Cum-Retirement) Rules 1958 are applicable to the applicant's case and as per Rule 2(h) therein pension does not include gratuity.

iv. The respondent gravely erred in not granting the gratuity to the applicant and ~~his~~^{the} action is contrary to the decision of the Supreme Court in the case of D.V. Kapoor Vs. ~~the~~ Union of India and others, reported at AIR 1990 Supreme Court 1923.

7. DETAILS OF REMEDIES EXHAUSTED

It is submitted that there is no alternative remedy except to invoke the extraordinary jurisdiction of this Hon'ble Tribunal for the relief sought for in this O.A.

8. MATTER NOT PENDING ON PREVIOUSLY FILED IN ANY OTHER COURT:

It is submitted that the applicant has not filed any writ or suit and that no writ or suit filed or is pending in any other court for the relief sought for in this O.A.

9. RELIEF SOUGHT FOR:

In view of the facts mentioned in Para 6 the applicant prays for the following relief:

To declare the action of the respondent in not granting the gratuity to the applicant as highly illegal, arbitrary and contrary to rules and

...6..

...6..

and consequently direct the respondent to pay the amount of gratuity due to the applicant forthwith alongwith the interest @ 18% and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

10. INTERIM ORDER PRAYED FOR:

The action of the respondent is highly arbitrary and contrary to rules. The applicant is financially hard pressed to the non-payment of gratuity to which he is entitled. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to direct the respondent to pay the amount of gratuity due to the applicant along with interest @ 18% from the date of his retirement i.e. 1.10.90, pending disposal of O.A. as otherwise the applicant would suffer serious loss and irreparable damage.

11. PARTICULARS OF THE APPLICATION FEE:

No. of India Postal Order: No.431398 for Rs.50/-
Name of the Issuing Post Office: Mehidapatnam.
Date of issuing Postal Order: 18.1.1992.
Post Office at which payable: G.P.O. Hyderabad.

Rs. 50/-
EP.O./B.C./D.D. Removed

12. LIST OF ENCLOSURES:

1. Postal Order for Rs. 50/-
2. Index of material papers along with the material papers.
3. Vakalat.
4. ^{Two} ~~One~~ full size envelopes.
5. One file pad.

...7..

..7...


VERIFICATION

I, G. Sreerama Murthy, S/o G.Venkat Reddy, aged about 60 years, Assistant Commissioner of Income-Tax(Retired), resident of Room No. 110, First Floor, 4-1-873, Tilak Road, Abids, Hyderabad, do hereby verify that the contents of paras 1 to 6 are true to my personal knowledge and paras 7 to 12 are believed to be true on legal advice and that I have not suppressed any material facts in the above O.A.

Hyderabad.

Dated: 13.2.1992.


SIGNATURE OF APPLICANT.


COUNSEL FOR THE APPLICANT.

To
The Registrar,
Central Administrative Tribunal,
Hyderabad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

O.A.No. of 92.

Between:

G.Srirama Murthy


... Applicant

Vs

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad *and another* ... Respondent

Chronology of events

17-03-59	Applicant joined in Incometax Department as U.D.C.
30-01-60	Appointed as Inspector in Direct Recruitment quota.
18-08-69	Promoted as Incometax officer, Group-B.
21-09-82	Appointed as Incometax officer, Group-A.
2/3-10-83	C.B.I. raided the house of the Applicant.
01-09-87	C.B.I. filed charge-sheet which was returned by the court of special judge for C.B.I.cases, Visakhapatnam.
23-04-88	Applicant was placed under suspension.
21-07-88	Applicant was reinstated to duty.
11-04-89	Charge-sheet was resubmitted by C.B.I.
19-01-90	Applicant was discharged by Special Judge for C.B.I. cases at Visakhapatnam in Criminal M.P.No.98 of 89 in CC No.61 of 89.
28-09-90	Fresh charge-sheet was filed by C.B.I.
30-11-90	Charge Memo issued to the applicant.
30-11-90	Applicant's representation for grant of retirement benefits including gratuity.
30-11-90	Applicant retired on attaining the age of Superannuation.
03-1 -91	Respondents letter stating that applicants' request can not be acceded to.


Counsel for the applicant.

Office of the
Chief Commissioner of Incometax,
8th floor, Aaykar Bhawan,
Basheerbagh, Hyderabad.

No.Con.28/83/Vol.II

Dated 3 Jan, 1991.

Shri G.Sree Rama Murthy,
Asst.Commissioner of Incometax(Retd.),
Door No.25-6-5/1/1,
J.K.puram,
Rajahmundry-533105.

Sir,

Sub:-Establishment-Retirement benefits-
Your own-Reg.

Ref:-Your letter dated 30.11.1990 addressed
to the Chief Commissioner of Incometax,
A.P., Hyderabad.

-ooOoo-

I am directed by the Chief Commissioner of Incometax,
Hyderabad to refer to your letter cited above and to inform
you that your request for grant of full pension, gratuity,
etc. cannot be acceded to at this stage because of the
provisions contained in Rule 69 of CCS(Pension)Rules, 1972.

Yours faithfully,

Sd/-

(G.B.KANUNGO)

Deputy Commissioner of Incometax,
(Hqrs) (Admn & Vig),
Hyderabad.

//True copy//



From:

G.Sree Rama Murthy,
Asst.Commissioner of Incometax(Retd.),
D.No.25-6-5/1/1, J.K.Puram,
Rajahmundry-533105.

To

The Chief Commissioner of Incometax,
Andhra Pradesh,
Hyderabad.

Sir,

Sub:- Establishment-Retirement benefit-G.Sree Rama Murthy,
A.C.I.T.(Retd.), Visakhapatnam...

Ref:- Vizag, Deputy Commissioner's proceedings in C.R.No.
68/90-91 dt.12.10.90-Sanctioning of provisional
pension...

2. Vizag C.I.T.'s letter dt.CR No. 3/89 dt.20.7.90...
3. Copy of the Court order of spl.Judge for C.B.I.cases
at Visakhapatnam. dt.19.1.90.

-ooOoo-

1. Kindly attention is invited to the Vizag Deputy
Commissioner's proceedings in sanctioning the provisional
pension(copy enclosed) for ready reference) as per vizag
C.I.T. s C.r No.3/89 dt.20.7.90.

2. I have been granted only provisional pension but not
full pension and gratuity and other benefits, like
commutation of pension.

3. I am informed that in view of Board's direction in their
letter No.F.No.C-17011/1/90 V&L dt.9.7.90, I have been
granted only provisional pension only. I am also informed
that there was mention in the above letter that prosecution
proceedings for possession of disproportionate assets have
been initiated by the CBI on 5.6.87. and I am only entitled
to provisional pension and other benefits like commutation
of pension and gratuity will not be allowed till proceedings
are finalised.

4. In this connection, I am to bring to your kind notice
the Hon'ble special judge for C.B.I. cases at Visakhapatnam
has quashed the prosecution proceedings initiated by the
C.B.I. on 5.6.87 in his order dt.19.1.90 in C.R.No.M.F.98/89
in C.C.No.61/89(copy enclosed for ready reference). And
I have been discharged under Sec.239 Cr.P.C.

KG

page: 11

::2::

5. In view of the above courts order questioning the above proceedings initiated by the C.B.I. the Boards view that prosecution proceedings are still pending is not correct.

6. I, therefore, request the Chief Commissioner of Incometax to kindly interfere in the matter and the Board may be informed factual position and I may be allowed to draw full pension and other benefits like commutation of pension & Gratuity for which act of kindness, I shall be ever grateful to you sir,

Yours faithfully,

Sd/-

Rajahmundry,
Dt.30.11.1990.

(G.SRIRAMA MURTHY)

Encls: 1. Xerox copy of D.C.'s letter dt.12.10.90.

2. Xerox copy of Court order t.19.1.90.

Copy to: The Commissioner of Income tax, Vizag.

//True copy//



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. No.125 of 1992

Between:

G.Srirama Murthy

.. Applicant

A N D

The Chief Commissioner of Incometax, A.P. Respondents
Aayakar Bhavan, Basheerbagh
Hyderabad and another.

COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENTS

I, R.Ganesan, S/o Late C.A.Rajagopal, aged about 57 years, working as Chief Commissioner of Incometax, Andhra Pradesh, Hyderabad, do hereby solemnly affirm and state on oath as follows:

1. I am the respondent No.1 herein and as such I am well acquainted with the facts of the case. I have read the O.A. filed by the applicant and I submit that it does not disclose any valid or substantial grounds for the grant of relief prayed for

2. It is submitted that a brief history of the case is that in the case of Shri G.Sreerama Murthy, the C.B.I. filed an F.I.R. on 29-9-1983 and conducted a raid at his premises. A case for disproportionate assets of Rs.2,61,600/- was made out. The C.B.I. forwarded a draft sanction order for prosecution u/s 15(2) of Prevention of Corruption Act. 1947. The advice of Central Vigilance Commission and approval of Finance Minister was duly taken and the case was filed. However, prosecution case was dismissed by Special Judge on technical ground vide Judgement dated 19-1-1990. The main ground for acquitting the officer was that an opportunity had not been given to the officer before filing the prosecution. A fresh sanction was issued after taking the approval of the Minister and after giving opportunity. Thus, the prosecution proceedings are pending. It was also decided to initiate major penalty proceedings against the officer for which the approval of the Central Vigilance Commission was taken on 19th September, 1990. The approval of the Minister was also taken for the same on 25-9-1990. Thus, on date the above two proceedings are pending against the officer.

Page No.1

Corrections: |



ATTESTOR

K. V. L. NARAYAN RAO
Dy. Commissioner of Incometax
(H. Qrs) (Admn.) & (Vig.)
Hyderabad - 4.

DEPONENT

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.

con

13

3. The officer was placed under suspension(after taking due approval) on 20-4-1988. Vide interim order the C.A.T. revoked the suspension and the officer joined the Department on 21-7-1988. Meanwhile, C.A.T. passed another order on 26-12-1989, dismissing the officer's appeal that he should not be suspended. However, the officer moved to the Supreme Court in S.L.P. It was decided that status quo as on February, 1990 should be maintained. He continued to be in service.

4. A charge sheet was served on the applicant initiating disciplinary proceedings against him on the ground of possession of disproportionate assets. The date of the charge sheet is 26th September, 1990. Besides Departmental proceedings, the C.B.I. also filed a fresh chargesheet in the Court of Special Judge for C.B.I. cases at Visakhapatnam on 13-12-1990. Both the above proceedings are still pending.

5. Before the above proceedings, a sanction order had been issued dated 5-6-1987 was returned to the Board for affixing the seal of the sanctioning authority. The matter was duly regularised and sent back. After this the C.B.I. filed a chargesheet before the Special Judge. However, the Special Judge vide their order dated 19-1-1990 acquitted the officer on technical grounds that proper opportunity had not been given to the officer. Therefore opportunity was given and a fresh chargesheet was filed by the C.B.I. before the Special Judge and the same is still pending.

6. In reply to para 6(d) it is submitted that the applicant's request for grant of full pension and gratuity was rightly rejected because as per Rule 9(4) of CCS(Pension)Rules, 1972, in all cases where departmental or judicial proceedings are pending against a pensioner, only a provisional pension is sanctioned to the pensioner. The position as stated by the applicant is not admitted. Incidentally, it may be mentioned that the amount of provisional pension is equal to the maximum pension admissible to the Government servant on the basis of qualifying service rendered by him. In this case too, the applicant has been granted provisional pension admissible to him as per rules. Similarly as per the provisions of Rule 69(c) of CCS(Pension)Rules, 1972 no gratuity is paid to the Government servant until the conclusion of the Departmental or Judicial proceedings pending against him.

Page No.2
Corrections: |



ATTESTOR

K. V. L. NARAYAN RAO
Dy. Commissioner of Incometax
(H. Qrs.) (Admin.) & (Vig.)
Hyderabad - 4.


DEPONENT

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.

contd...3..

(9)

7. In reply to para 6(d)(i) it is submitted that the contention of the applicant that he belongs to "All India Service" and that the provisions of CCS(Pension)Rules are not applicable to him is not correct. The Rules of All India Services are definitely not applicable in the case of the applicant. At the time of his retirement on 30-9-1990 the applicant was Asst. Commissioner of Incometax and so he belonged to Indian Revenue Service. This service is not recognised as an All India Service in view of the definition of "All India Service" contained in Section 2 of the All India Services Act, 1951. Thus, the applicant belonged to Central Civil Services and as such he is governed by the provisions of CCS(Pension)Rules, 1972.

8. In reply to para 6(d)(ii) it is submitted that the applicant is not correct in contending that the gratuity can not be withheld ~~in~~ even if the charges are ~~proved~~ ultimately proved against him. This position is contrary to rules. The rules laid down in this regard clearly give a right to the President to withhold pension and gratuity. It is submitted that as per Rule 9 of CCS(Pension)Rules, 1972 the President of India is empowered to withhold or withdraw the pension if the pensioner is found guilty of gross misconduct or negligence ~~xx~~ in any departmental or judicial proceedings. As per the definition of "pension" as contained in the Sub-clause 1(e) of Rule 3 of CCS(Pension)Rules "Pension" included gratuity.

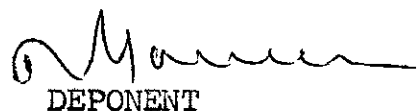
9. In reply to para 6(d)(iii) it is submitted that as already submitted under para 6(d)(i) supra the applicant has gravely erred in believing that he belongs to "All India Service". The applicant did not belong to the All India Services and hence, the All India Services (death cum retirement) rules, 1958 are not applicable to him. The applicant is governed by the provisions of CCS(Pension)Rules, 1972 and his gratuity has been rightly withheld as per the provisions contained in this Rule.

10. In reply to para 6(d)(iv) it is submitted that as per the provisions of Rule 69 of CCS(Pension)Rules the respondents are empowered to withhold the gratuity until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.



ATTESTOR

K. V. L. NARAYAN RAO
Dy. Commissioner of Incometax
(H. Qrs.) (Admn.) & (Vig.)
Hyderabad - 4.

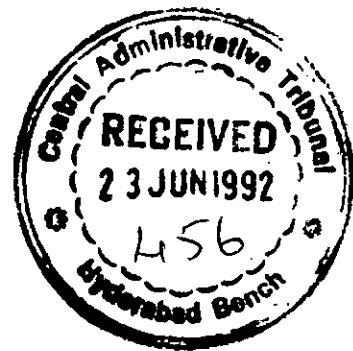

DEPONENT

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.

contd..4..

In the Central Administrative Tribunal
Hyderabad Bench Hyderabad
OA 125 of 1992

Counter Affidavit



Filed on 23-6-92

E
2/6

Filed by

NARAM BHASKER RAO
Advocate, High Court of A. P.
Additional Standing Counsel For Central Govt.
H. No. 39/3 RT, Vijayanagar Colony,
HYDERABAD-500 457

(25)

11. In reply to para 9 it is submitted that in view of the submissions made earlier the relief sought for by the applicant may not be granted.

12. With regard to the judgement of the Supreme Court in the case of D.V.Kapoor Vs. Union of India, it is worthwhile to mention that the notification of the Government of India dated 23-8-1991 has instituted the following sub-rule..

"The President reserved to himself the right of withholding pension or gratuity ~~or~~ or both... " if any departmental proceedings are pending.

13. For all the reasons ~~stated~~ stated above there are no merits in the prayer of the applicant with regard to the payment of gratuity along with interest and hence the same may be ~~dismissed~~ rejected.

Page No.4

Corrections:


DEPONENT

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.

Sworn on this, the 19th day of June, 1992
and signed his name. Before me, in my presence.


ATTESTOR

K. V. L. NARAYAN RAO
Dy. Commissioner of Incometax
(H. Qrs.) (Admn.) & (Vig.)
Hyderabad - 4.

VERIFICATION

I, the above named respondent No.1 herein do hereby state that what all stated in the Counter Affidavit is true to the best of my knowledge, belief and information. Hence, verified on this, the 19th day of June, 1992 at Hyderabad.


DEPONENT

Corrections:

Last page No.4


ATTESTOR

K. V. L. NARAYAN RAO
Dy. Commissioner of Incometax
(H. Qrs.) (Admn.) & (Vig.)
Hyderabad - 4.

Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.

.....

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

~~E.A./M.A./C.A. No.~~

ORIGINAL APPLICATION NO.

125/92 OF 19

TRANSFER APPLICATION NO.


OLD PETN. NO.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated: 1/8/94

Counter Signed
Section Officer/Court Officer.


Signature of the Dealing Asst.

21

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. 125/92.

Dt. of Decision : 29.7.94.

Mr. G. Sreerama Murthy

.. Applicant.

Vs

1. The Chief Commissioner of
Income-Tax, Andhra Pradesh,
Aayakar Bhavan, 8th Floor,
Basheerbagh, Hyderabad.

2. Central Board of Direct Taxes,
rep. by its Secretary, North Block,
New Delhi.

.. Respondents.

Counsel for the Applicant : Mr. G.V.R.S. Vara Prasad

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

(22)

DA.125/92

Judgement

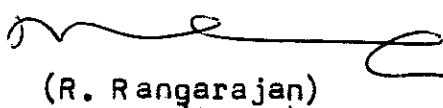
(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

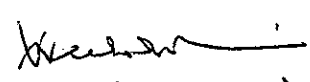
Heard Sri G.V.R.S. Vara Prasad, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. This DA was filed praying for declaration that the action of the respondents in not granting the gratuity to the applicant is illegal, arbitrary, and contrary to Rules.

3. On the basis of investigation by CBI, Departmental proceedings were initiated against the applicant even before his retirement and the same was continued under Rule 9(3) of CCS (Pensions) Rules. As per Rule 9(4) of CCS(Pension) Rules gratuity can be withheld if the inquiry is continued under Rule 9(3). It is held in 1993(1)SLR 23 (Jarnail Singh vs. Secretary, Ministry of Home Affairs and others) that gratuity can be withheld in such cases.

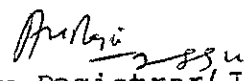
4. As such this DA does not merit consideration and accordingly it is dismissed. No costs.\


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : July 29, 94

Dictated in Open Court


Deputy Registrar(J)CC

To

1. The Chief Commissioner of Income-tax, Andhra Pradesh, Aayakar Bhavan, 8th Floor, Basheerbagh, Hyd.
2. The Secretary, Central Board of Direct Taxes, North Block, New Delhi.
3. One copy to Mr. G.V.R.S. Vara Prasad, Advocate, CAT. Hyd.
4. One copy to Mr. N.R. Devraj, Sr. OGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

pvm

2/2/94

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADJN)

DATE: 29-7-1994

ORDER / JUDGMENT

M.A.No./R.A/C.A.No.

in

O.A.No. 125/92

(T.A.No. (W.P.NO)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

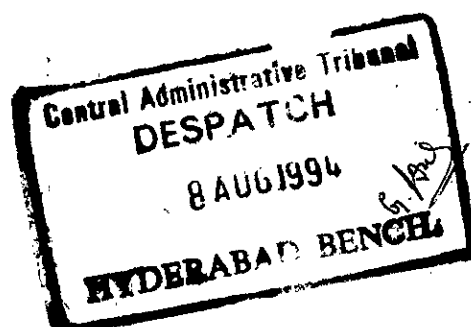
Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

pvm



Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri G.V.R.S. Vara Prasad, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. This OA was filed pr~~o~~g for declaration that the action of the respondents in not granting the gratuity to the applicant is illegal, arbitrary, and contrary to Rules.

3. On the basis of investigation by CBI, Departmental proceedings were initiated against the applicant even before his retirement and the same was continued under Rule 9(4) of CCS (Pensions) Rules. As per Rule 9(4) of CCS(Pension) Rules gratuity can be withheld if the inquiry is continued under Rule 9(3). It is held in 1993(1)SLR 23 (Jarnail Singh vs. Secretary, Ministry of Home Affairs and others) that gratuity can be withheld in such cases.

4. As such this OA does not merit consideration and accordingly it is dismissed. No costs.\

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer

Central Administrative Tribunal

Hyderabad Bench

Hyderabad

To

1. The Chief Commissioner of Income-tax, Andhra Pradesh, Aayakar Bhavan, 8th Floor, Basheerbagh, Hyd.
2. The Secretary, Central Board of Direct Taxes, North Block, New Delhi.
3. One copy to Mr.G.V.R.S.Vara Prasad, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr. OGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

COPIES : DA-125/92
29.7.94
4.8.94
D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. 125/92.

Dt. of Decision : 29.7.94.

Mr. G. Sreesrama Murthy

.. Applicant.

Vs

1. The Chief Commissioner of
Income-Tax, Andhra Pradesh,
Aayakar Bhavan, 8th Floor,
Basheerbagh, Hyderabad.
2. Central Board of Direct Taxes,
rep. by its Secretary, North Block,
New Delhi.

.. Respondents.



Counsel for the Applicant : Mr. G.V.R.S. Vara Prasad

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CCRAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)