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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.969-of 1996

DATE-OF-ORDER: 17th December, 1996

BETWEEN:

S.JANAKIRAM SINGH

.. APPLICANT

AND

1. Union of India, rep. by the
Controller General of Defence (Accounts),
West Block V, R.K.Puram,
New Delhi,
2. The Controller of Defence (Accounts),
No.1, Staff Road, Near Secunderabad Club,
Secunderabad,
3. The Chief Controller of Defence (Accounts),
(Pension), Allahabad. .. Respondents

COUNSEL FOR THE APPLICANT: SHRI S.SURYA PRAKASA RAO

COUNSEL FOR THE RESPONDENTS: SRI V.VINOD KUMAR, Addl.CGSC

CORAM:

HON'BLE SHRI B.S.JAI PARAMESHWAR, JUDICIAL MEMBER

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
JUDICIAL MEMBER

Heard Mr.S.Suryaprakasa Rao, learned counsel for
the applicant and Mr.V.Vinod Kumar, learned standing
counsel for the respondents.

2. The applicant was working as Senior Auditor in the
office of the PAO (ORS) EME, Secunderabad - Office of
Controller of Defence Accounts, Secunderabad. He retired

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from service effective from 31.7.95 on attaining the age of superannuation. The staff of the office of the PAO (ORS) had formed a Cooperative Society and the applicant, it is stated, was the Secretary ^{of} to the said Society between June 1975 and 1983.

3. ~~On 23.11.91~~ The Deputy Registrar of the Cooperative Societies served a show cause notice on the applicant in the proceedings No.5389/85-B dated 27.11.91 (Annexure R-7). The applicant did not submit any reply to the said show cause notice. Thereafter, the Deputy Registrar of Cooperative Societies concluded the said proceedings by his order dated 30.11.92 (Annexure R-8). The Deputy Registrar found the applicant liable ^{pay to} to the Society a sum of Rs.51,003=13.

4. Against the said order, the applicant filed the Writ Petition before the Hon'ble High Court of Andhra Pradesh in W.P.No.1847/93. In the said proceedings, the applicant deposited a sum of Rs.25,000/- towards the dues of the said Society. However, he withdrew the said W.P. on 12.3.96 as the provisions of the Andhra Pradesh Cooperative Societies Act provided him an alternative remedy of challenging the decision of the Deputy Registrar of the Cooperative Societies, before Co-operative Tribunal, Hyderabad.

5. Thereafter, the applicant filed the proceedings before the Cooperative Tribunal, Hyderabad in CTA No.32/96. The said proceedings before the Cooperative Tribunal are



pending adjudication.

6. While the matter stood thus, the Deputy Registrar of the Coopoerative Societies addressed a letter dated 30.7.95 to the Deputy Controller of Defence Accounts to withhold the pensionary benefits of the applicant ^{due} on his retirement. Thereafter, vide Annexure-I, the office of the Chief Controller of Defence Accounts (P), Allahabad by the order dated 17.8.95 informed the applicant that after finalisatin of the judicial proceedings, his DCRG and the capitalised value of pension would be released.

7. Now the applicant has filed this OA, praying this Tribunal to direct the respondents to release his pensionary benefits, gratuity etc. with interest @ 18% per annum from the date of his retirement till the date of payment. It is his case that the Deputy Registrar of the Cooperative Societies cannot direct the respondents to withhold the ^{pensionary} ~~said~~ benefits to him, that the gratuity and the pensionary benefits cannot be attached either under Section 70 or under Section 73 of the Cooperative Societies Act, that they are also not attachable under ^{proviso to} Section 60 of the CPC, that the activity of the applicant with regard to the Cooperative Society is purely a private affair, that the action of the respondents is illegal, ~~and~~ arbitrary and thus he is entitled to the retirement benefits.

8. The respondents have filed their reply statement stating that the Deputy Registrar of the Cooperative



Societies vide his letters dated 30.11.92 and 30.7.95 (Annexure R-1 and R-2) made a request to withhold the pensionary benefits pending finalisation of the proceedings against the applicant, that withholding of retirement benefits is in consonance with Section 72 read with Sections 60 and 70(e) of the Andhra Pradesh Cooperative Societies Act, 1964 and Rule 69(1)(c) of CCS (Pension) Rules, 1972, that since the judicial proceedings in WP No.1847/93 in the Hon'ble A.P.High Court are still pending, withholding of the pensionary benefits is justified, that the surcharge order of the Deputy Registrar (Annexure R-8) clearly fixes the responsibility to the applicant to the extent of Rs.51,003=13, that the applicant was given sufficient opportunity to dispute the said claim, that the applicant deposited a sum of Rs.25,000/- as per the directions of the High Court, that the applicant did not comply with the court directions until he was ^{Compelled} ~~directed~~ to do so as per Annexure R-9, that the applicant deposited Rs.25,000/- after a lapse of two years on 10.5.95, that the gratuity and the commuted value of pension was withheld by the CCDA(P) Allahabad on the ground of issuance of the surcharge order against the applicant, that the said order was in consonance with the provisions of section 72 of APCS Act 1964 and in conformity with the provisions of Rule 69(1)(c) of CCS (Pension) Rules 1972, that a sum of Rs.25,000/- has been deposited by the applicant in the form of fixed deposit in favour of the PAO (ORS) AOC, Secunderabad Employees Cooperative Credit Society, that the documents are held by the Special Officer/PIC, O/o the

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Deputy Registrar, cooperative Societies, City Circle, that when the judicial proceedings were pending against a Govt. servant, no gratuity ^{could} ~~can~~ be paid until finalisation of the said proceedings, that the same have been withheld as per the directions of the Deputy Registrar since he is the person authorised and holds the status of a Civil Court for certain purposes as per Section 72 read in conjunction with Section 60 and 70(e) of APCS Act 1964 and is in compliance with the provisions of CCS (Pension) Rules, that the applicant by virtue of being a Govt. servant was involved in the activities of the Society, that as a Govt. servant he was governed by the provisions of Rule 17 of the CCS (Conduct) Rules, that as per the said rule, the applicant should have managed his private affairs so as to avoid falling into indebtedness, that in the circumstances, the action in withholding the payment of gratuity and the commuted value of pension cannot be regarded as arbitrary or illegal and that the application be dismissed with costs.

9. Admittedly, the applicant did not file the reply to the show cause notice dated 27.11.91. In connection with the said proceedings, the dispute is pending before the Cooperative Tribunal, Hyderabad. The learned counsel for the applicant submitted that the Inspecting Officer had himself calculated the interest and that it was beyond the ^{Comp} ~~app~~prehension to calculate the interest at Rs.26,000/- for a sum due from the applicant which was equal to the said sum. It is for the Cooperative Tribunal to decide that aspect.



This Tribunal cannot decide whether the interest charged ^{arrived at} by the Inspecting Officer is excessive or not. The Society formed was of the officials of the PAO (ORS). As per Section 72 of the Andhra Pradesh Cooperative Societies Act, the Deputy Registrar of the Cooperative Societies has to be regarded as a Civil Court and the proceedings before him are judicial proceedings. Therefore, I find no reasons to say that the action of the respondents in withholding the gratuity till the conclusion of the proceedings, is arbitrary. It is for the applicant to get the proceedings adjudicated before the Cooperative Tribunal expeditiously.

10. Withholding the pensionary benefits naturally causes hardship and difficulties to the applicant. Admittedly, as per the orders of the Deputy Registrar of the Cooperative Societies, the liability of the applicant is only to the extent of Rs.51,003=13. Besides, the applicant ^{has} ~~had~~ deposited a sum of Rs.25,000/- in the fixed deposit as per the directions of the Hon'ble High Court of Andhra Pradesh. Considering all these circumstances, I feel it proper to direct the respondents to withhold ^{the} a sum of Rs.30,000/- till the conclusion of the judicial proceedings and release the remaining amount to the applicant.

11. The respondents shall calculate the gratuity and the commuted value of the pension of the applicant within a period of four months from the date of receipt of ^{the} a copy of this order and release the entire sum except Rs.30,000/-.



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O.A.NO.969/96

Copy to:

1. The Controller General of Defence (Accounts),
West Block V, R.K.Puram, New Delhi.
2. The Controller of Defence (Accounts),
No.1, Staff Road, Near Secunderabad Club,
Secunderabad.
3. The Chief Controller of Defence (Accounts),
(Pension), Allahabad.
4. One copy to Mr.S.Suryaprakasa Rao, Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Vinod Kumar, Addl.CGSC,CAT,Hyderabad.
6. One copy to Library,CAT,Hyderabad.
7. One copy for duplicate copy.

for an extra copy for Jai Prakash Rao (2)

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9/11/97

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

~~THE HON'BLE SHRI R. RANGARAJAN. M(A)~~

~~AND~~

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 17.12.96

ORDER/JUDGEMENT

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

O.A.No. 969/86ⁱⁿ

~~ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS.~~

II COURT

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