

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

CIRCUIT COURT AT INDORE

Original Application No. 306 of 2003

Indore, this the 14th day of May 2003

Hon'ble Shri R.K. Upadhyaya - Administrative Member.  
Hon'ble Shri A.K. Bhatnagar - Judicial Member.

Hari Vallabh Gupta, S/o. Shri  
Khyaliram Gupta, Aged 63 years,  
Occupation - Retired Divisional  
Accountant, R/o. 731, Sudama  
Nagar, Indore (MP).

... Applicant

(By Advocate - Shri C.B. Patne)

V e r s u s

1. Union of India, through Secretary  
to the Govt. of India, Ministry  
of Finance, New Delhi.
2. The Accountant General (Accounts  
& Claims-I), Madhya Pradesh, 53,  
Arera Hills, Hoshangabad Road,  
Bhopal (MP).
3. The Accountant General (Accounts  
& Claims-II), Madhya Pradesh,  
Jhansi Road, Gwalior - 474 002 (MP).. Respondents

O R D E R (Oral)

By R.K. Upadhyaya, Administrative Member :-

The applicant has prayed for quashing the order dated 28/02/2003 by which the Senior Deputy Accountant General has rejected the applicant's petition dated 29/12/2002 and this communication of rejection has been given to the applicant by letter dated 11/03/2003 (Annexure A/8). The applicant states that Senior Deputy Accountant General's order dated 28/02/2003 has not been given to him. The applicant further has sought a direction to the respondents to make payment of full pension, commutation of pension, leave encashment and gratuity to the applicant alongwith interest at the rate of 18% per annum.

2. The claim of the learned counsel of the

applicant is that the applicant retired on super-annuation on 31/12/1997 from the post of Divisional Accountant from the office of Narmada Valley Development Authority. The applicant while working as Divisional Accountant was implicated in a false case of misconduct resulting in wrong-ful payment of Rs. 8,94,630/- to the Contractor Shri Dwarka Das in respect of construction work for the period of 23/04/1983 to 16/02/1984. The learned counsel states that the applicant has not been held responsible for the misconduct but only as a conspirator and punishment order in the name of Governor of Madhya Pradesh has been issued on 14/09/1990 (Annexure A/1) with-holding one increment of the applicant. According to him the respondents are not authorised in law to with-hold any part of pension, gratuity, commutation of pension and leave encashment, after the passing of the punishment order in respect of that misconduct. Therefore the learned counsel claims that pendency of criminal case as intimated by the respondents vide their letter dated 11/03/2003 (Annexure A/8) is of no consequences. In this connection, he placed reliance on the decision of this Tribunal dated 19/04/2002 in OA No. 297/1997 in the case of K.R. Vyas Vs. Union of India and others.

3. After hearing the learned counsel of the applicant and after perusal of the material made available at the time of admission of this original application, it is noticed that the applicant is being proceeded in a criminal case under Section 420/120-B of Indian Penal Code and Section 13(i)(c) and 13(i)(d) of the Prevention of Corruption Act, 1988 in the Court of Special Judge, Mandaleshwar. In OA No. 297/1997 in the case of K.R. Vyas (supra) provisions contained in Rule 39 of CCS Leave Rules, 1972, wherein it has been stated that if there is any possibility of recovery of any money from the applicant, leave encashment can be with-held. The payment of gratuity is also subject

*Ch. B. N. Rao*

to the applicant being ~~the~~ honourably acquitted in the case relating to his conduct in discharging of his official duties. The question of commutation of pension and grant of full pension will also depend on the ultimate result of the pending case. Therefore the applicant cannot claim any relief during the pendency of the criminal case and the respondents have rightly rejected his application claiming full pension, commutation of pension, gratuity and leave encashment. Therefore we do not find any justification to grant any relief to the applicant at this stage. Whenever the case is finally concluded, the applicant may be at liberty to approach the respondents for the appropriate relief in accordance with the rules.

4. So far as this original application is concerned, the same being devoid of merits and also being pre-mature in view of the pendency of the case is rejected at the admission stage itself.

(A.K. BHATNAGAR)  
JUDICIAL MEMBER

(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय एवं एडवोकेटजन, जबलपुर
- (2) आदेश नं. 10/10/03.....के काउंसल
- (3) इलाहाबाद न्यायाधीश/उच्च न्यायालय के काउंसल
- (4) जज (सिविल), जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

*29/5/03*

CB Pathe, Ackd, 29/5/03

Issued  
on 22.5.03  
BS