

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.846/03

Jabalpur, this the 17th day of September, 2004

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman  
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

V.K.Singh  
S/o Late Shri G.B.Singh  
R/o H/HIG-373, Ayodhya Nagar, Phase-II  
Bhopal (MP)

Applicant

(By advocate Mr. Munish Saini)

Versus

1. State of Madhya Pradesh  
through the Chief Secretary  
Mantralaya, Vallabh Bhawan  
Bhopal.
2. The Principal Secretary  
Department of Forest  
State of Madhya Pradesh  
Mantralaya, Vallabh Bhawan  
Bhopal.
3. The Accountant General  
(Accounts & Claims), Madhya Pradesh  
Gwalior.
4. The Principal Chief Conservator of Forest  
Madhya Pradesh, Satpura Bhawan  
Bhopal (MP). Respondents.

(By advocate Shri Om Namdeo for respondents 1,2&4)  
Shri P.Shankaran for R3)

O R D E R (oral)

By M.P.Singh, Vice Chairman

By filing this OA, the applicant has claimed the following reliefs:

- (i) To direct the respondents to release amount of Rs.3,50,000/- as Death-cum-Retirement Gratuity as calculated by them wrongly withheld alongwith interest @ 24% per annum.
- (ii) Direct the respondents to release amount of Rs. 4,07,311/- as commutation of pension as calculated by them and wrongly withheld alongwith interest @ 24% per annum.

2. The brief facts of the case are that the applicant was serving on the post of Conservator of Forest in the Forest Department and he retired on 30.6.2000 on attaining

*[Handwritten signature]*

the age of superannuation. All his retiral dues had been released by the Government except the amount of DCRG and commutation of pension. The amount of DCRG has been withheld as also the amount of commutation of pension. According to the respondents, a criminal case was registered against the applicant with the Economic Offence wing. While serving on the post of Divisional Forest Officer (Delakhari Depot), West Production Division, Chhindwara, a complaint was received against the applicant that on 11.3.92, the applicant and his subordinate officers and employees had auctioned timber in the name of Shyam Timber, Rajnandgaon allegedly involved in manufacture of furniture as a small scale industry. Since retiral dues relating to DCRG and commutation of pension have not been given to the applicant, he has filed this OA.

3. Heard the learned counsel for both parties. The learned counsel of the applicant states that the applicant retired 4 years back. According to the applicant, no departmental or criminal proceedings had been initiated against the applicant and his retiral dues have been withheld by the respondents without any reason. He has also drawn our attention to para 6 (i) (c) of the All India Services (Death Cum Retirement Benefits) Rules, 1958, which reads as follows:

"(c) such judicial proceeding, if not instituted while the pensioner was in service, whether before his retirement or during his re-employment, shall not be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution."

The learned counsel of the applicant has submitted that an investigation is being made against the applicant for an offence committed in 1992. More than 4 years have already passed and as per Rule 6 (i)(c) of the All India



Services (Death Cum Retirement Benefits) Rules, 1958, no judicial proceedings can be instituted in respect of a cause of action which arose or took place more than 4 years back. He has also stated that till now the respondents have not filed a charge sheet in the criminal court and, therefore, as per the provisions of the aforesaid rules, the retiral dues are required to be released to the applicant, with interest.

4. On the other hand, the learned counsel of the [redacted] respondents states that an investigation is being made against the applicant for an offence committed in 1992. They have applied for sanction to be issued by the Government for filing a [redacted] charge sheet in the criminal court. He has also stated that the complaint against the applicant under the Prevention of Corruption Act was received in 1992 and in view of Rule 6(2) of the All India Services (Death Cum Retirement Benefits) Rules, 1958, no gratuity or DCRG shall be paid to him until the conclusion of such proceedings and the issue of further orders thereon.

5. We have given careful consideration to the rival contentions. It is an admitted fact that the applicant retired from service on 30.6.2000. Some investigation regarding a complaint made against the applicant for an act committed by him in the year 1992 is being made. Till now the respondents have not filed a charge sheet in the criminal court. The applicant retired 4 years back and his DCRG and commutation of pension are withheld by the respondents. As per the explanation of Rule 6 Explanation - for the purpose of this rule - (b), a judicial proceeding shall be deemed to be instituted - (i) in the case of

criminal proceedings,, on the date on which a complaint is made or a charge sheet is submitted to the criminal court. In the present case, it is not in dispute that no charge sheet has been submitted to the criminal court against the applicant or for that matter, the court has not been moved with regard to the criminal matter against the applicant. Rule 6 (2) of the All India Services (Death cum Retirement Benefits) Rules clearly provides that gratuity/DCRG can be withheld only if judicial/criminal proceedings have already been instituted. In this case, obviously, no such proceedings have been instituted till now. We find substance in the contentions of the learned counsel of the applicant. Since no criminal proceedings have been instituted against the applicant till now, the respondents cannot withhold the DCRG and commutation of pension of the applicant and are required to be paid with interest.

6. For the reasons recorded above, we direct respondents 1 & 2 to release the amount of DCRG and commutation of pension to the applicant within a period of three months from the date of receipt of a copy of this order. The respondents shall also pay interest on DCRG in accordance with the decision No.2 of Rule 68 of CCS (Pension) Rules.

7. The OA is disposed of as above.

(A.K.Bhatnagar)  
Judicial Member

(M.P.Singh)  
Vice Chairman

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पृष्ठांकन सं. ओ/व्या.....जबलपुर, दि.....  
प्रतिलिपि अपने द्वारा:-

- (1) सदित, उच्च अदालत एवं एवं विद्याज, जबलपुर
- (2) आवेदक श्री/श्रीमती/दूजे.....के काहंसल
- (3) पत्न्यादी श्री/श्रीमती/दूजे.....के काहंसल
- (4) उत्तरात, के प्राप्त, जबलपुर

सूचना एवं आवश्यक कार्यक्रमी के

Muni M. Saini  
On Name  
P. Shankar.

27/10/04  
उप रजिस्ट्रार

On 27/10/04  
27/10/04