

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Dated the Tuesday 18<sup>th</sup> day of December Two Thousand And Eighteen

PRESENT:  
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/488/2018

A. Ashokan,  
Dy. Commissioner of Customs &  
Central Excise (Retd),  
No.30, Pachai Amman Illam,  
6<sup>th</sup> Street, Ashtalakshmi Nagar,  
Alapakkam,  
Chennai- 600 116.

....Applicant

(By Advocate: Mr. K. Yogesh Kannadasan)

Versus

1. Union of India Rep. by the  
Under Secretary to the Govt. of India,  
Central Board of Excise & Customs,  
Ministry of Finance, Department of Revenue,  
6<sup>th</sup> Floor, Hudco Vishala Building,  
Bhikaji Cama Place,  
R.K. Puram, New Delhi- 110 066;
2. The Commissioner of Customs (Chennai VIII),  
(Cadre Controlling Officer),  
Customs House,  
No.60, Rajaji Salai,  
Chennai- 600 001.

.....Respondents

(By Advocate: Ms. Hemamuralikrishnan)

**ORAL ORDER**

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Applicant has filed this O.A. seeking the following relief:-

“To call for the records pertaining to the impugned order F.No.C-14011/72/2016-Ad.V/054 in order No.3/2018 dated 09.02.2018 of the first respondent and to quash the orders passed therein.”

2. The grievance of the applicant is that applicant has been imposed a penalty of “withholding of 100% of his monthly pension and gratuity” following his conviction in a criminal case. The applicant was convicted by the Additional Special Court, CBI cases for offences under section 13(2) r/w, 13(1) (e) of Prevention of Corruption Act, 1988. However, the applicant has preferred Criminal Appeal No. 245/15 and the Hon’ble Madras High Court by its order dated 23.4.2015 has suspended the substantive sentence of imprisonment and also admitted the appeal. In view of the suspension of the sentence, the order of conviction dated 18.4.2015 had not attained finality and, therefore, the respondents were not justified in withholding 100% of applicant’s pension in the meantime, it is contended.

3. Learned counsel for the applicant seeks to rely on the order of this Tribunal in O.A. No. 1013/2014 dated 06.04.2016 wherein it was observed that *“not retaining a person in service pending appeal in the criminal case is not the same as withholding 100% of pension to a pensioner as the latter deprives the pension to a pensioner as the latter deprives the person his livelihood at an old age. A mere restoration of pension in the event of an Honourable acquittal in the appeal case may not undo the damage done to the pensioner in the interregnum. Accordingly, the Tribunal directed that the order could be kept in abeyance till the Hon’ble High Court finally disposes the Criminal appeal filed by the applicant.”* As the applicant’s case herein is similar, a similar order is sought from this Tribunal.

4. Learned counsel for the respondents would however, submit that in the precedent relied upon by the applicant, the law has not attained finality as the respondents therein had challenged the order of the Tribunal before the Hon'ble High Court of Madras. The Hon'ble High Court by an order dated 13.2.2017 in W.P.3420 of 2017 & WMP No. 3405 of 2017 granted interim stay and, therefore, this Tribunal could not pass a similar order.

4. I have considered the matter. Since there is no dispute that the applicant's case herein is similar to the one dealt with in O.A. 1013/2014 which was disposed of by an order dated 06.04.2016 and the same is pending before the Hon'ble Madras High Court in W.P. No. 3420/2017, I am of the view that this OA could be disposed of with a direction to the respondents to review their decision regarding the applicant in the event of Hon'ble High Court upholding the order of this Tribunal in the said case.

5. O.A. is disposed of as above. No costs.

(R. RAMANUJAM)  
MEMBER (A)

Asvs.

18.12.2018