



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 1432 of 2014

Date of order : 8.9.14

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

PRADIP KR. CHATTERJEE

VS

UNION OF INDIA & ORS. (E.RLY.)

For the applicant : Mr.B.K.Dey, counsel

For the respondents: Mr.A.K.Guha, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. This application has been filed seeking release of the gratuity amount along with interest @ 18% per annum from the date of superannuation i.e. 30.6.14.

3. The case in a nutshell is that the applicant retired on superannuation after having rendered his service for 39 long years, on 30.6.14. A letter was issued to him on 23.6.14 by the ACM Catering asking him to offer his remarks in regard to certain irregularities detected during the service tenure of the applicant. In reply the applicant refuted the allegations and requested for release of admissible dues upon his superannuation. On 10.7.14 a letter was issued by the Dy. Chief Commercial Manager/Catering to the CPO (Settlement), Eastern Railway asking him to hold up DCRG money as a huge amount was outstanding against the applicant on 10.7.14. The applicant having learnt of the reason for non-payment of dues as non-receipt of no claim certificate further requested the Chief Commercial Manager for release of withheld amount. The fact remains that till date he has not received his gratuity.

It has been strenuously argued by the ld. Counsel for the applicant that in absence of any proceedings the gratuity cannot be withheld.

4. Per contra ld. Counsel for the respondents submitted that the amount has been withheld as it has been detected that an amount of Rs.4,63,439/- is outstanding against the applicant and the total market liability is Rs.5,10,680/- for the period from 7.1.13 to 31.1.14. However, no instructions have been brought to the fore or on record which permits the authorities to realise such dues from the DCRG in absence of any proceedings initiated against the applicant.

5. I have heard the ld. Counsel for the parties and perused the materials on record.

6. Rule 9 of the Railway Pension Rules permits the authorities to initiate proceedings after retirement in regard to any occurrence within four years preceding the date of retirement. It also permits the authorities to continue a pending proceeding after the superannuation of the employee and permits the authorities to pay only provisional pension in case such proceedings have been so initiated. However, as a measure of penalty only the President reserves to himself the right of withholding a part or in full of the pension or gratuity or both where as a result of any departmental or judicial proceedings the guilt or negligence or misconduct of the pensioner during his period of service, has been established.

7. In view of the admitted position that no proceedings have been initiated against the employee prior to his retirement or after his superannuation till this date, ^{g. b} we direct the authorities to consider the claim of the applicant in regard to release of gratuity and if nothing stands in the way to release the same within two months from the date of communication of this order or to pass a reasoned and speaking order justifying withholding of the entire gratuity amount.

* 8. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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