

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/882/2017

Date of Order: 14.08.2019

Between:

A. Lingaiah
Retd.SPOs
Medak Division
S/o Late Sri A. Mallaiah
Age: 66 years
R/o H.No.18-73, JLB Road
Kalwakurthy – 509 324
District: Nagar Kurnool. Applicant

AND

1. Union of India rep by the Secretary
Ministry of Communications and IT,
And the Director General of Posts-India,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.

2. The Chief Postmaster General
Telangana Circle
Hyderabad – 500 001.

3. The Postmaster General
Hyderabad Region
Hyderabad – 500 001.

4. The Director of Accounts (Postal)
A.P.Circle
Hyderabad – 500 001. Respondents

Counsel for the Applicant Mr. M. Venkanna.
Counsel for the Respondents Mrs. L. Pranathi Reddy, Adll. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. The OA is filed for withholding the release of Gratuity/GPF and not permitting the applicant to commute pension.

3. Brief facts of the case are that the applicant was proceeded under Rule 14 of the CCS (CCA) Rules, 1965 by the respondents on 26.08.2011. When the inquiry was in process, the applicant retired on 31.08.2011, and therefore the disciplinary proceedings were taken up under Rule 9 of the CCS (Pension) Rules, 1972. The disciplinary inquiry ended by imposing the penalty of withholding of 20% of monthly pension for a period of three years, vide penalty order dated 20.04.2015, wherein it was also mentioned that the Gratuity admissible should be released, if not required otherwise. Respondents have also found a criminal complaint in the concerned Police Station against the applicant which is pending. The respondents on the basis of the criminal case, have not released the Gratuity. Hence, the OA has been filed.

4. The contentions of the applicant are that the respondents cannot issue PPO without entering the details of terminal benefits like Gratuity. By issuing the PPO without such details would mean that the above benefits have been denied. The Gratuity Act is an independent statute dealing with payment of Gratuity and the provisions contained in the said Act, cannot be conditioned by any other statute. The penalty imposed by the President of India, does not indicate about the withholding of Gratuity on account of loss sustained by the Department. Respondents have also withheld the final payment of GPF amount without citing any rule as the entitlement of GPF is covered by the provisions of the GPF Act.

5. Respondents in their reply statement confirmed that the applicant was proceeded under Rule 14 of CCS (CCA) Rules, 1965 on 26.08.2011 and on his retirement, it was converted into Rule 9 of CCS (Pension) Rules, 1972. A Criminal Case No.422/2012 is pending before the First Class

Judicial Magistrate at Medak. The Rule 9 proceedings culminated in imposing the penalty of withholding of 20% of monthly pension for a period of three years, vide penalty order dated 20.04.2015. Provisional pension was sanctioned on 07.02.2017, based on the orders of the President of India on 20.04.2015. Gratuity could not be paid to Government servant as per Rule 69 (c) of CCS (Pension) Rules, 1972, which states that no Gratuity can be paid to the Government servant until completion of the Departmental or Judicial proceedings. Therefore, Gratuity would be released as soon as the Criminal Case pending against the applicant is finalized. The penalty order of the President of India also affirms that Gratuity should be released, if not required otherwise. As the criminal case is pending, Gratuity could not be released, but the Leave Encashment to the extent of Rs.3,93,420/- was paid to the applicant on 19.02.2014. The GPF as well as commutation of pension were withheld because of the criminal case.

6. Heard both the counsel and perused the pleadings on record.
7. (I) Applicant was initially proceeded under Rule 14 of the CCS (CCA) Rules, 1965 and penalty of 20% cut in the monthly pension was imposed by the President of India and while doing so a clause was instituted stated that Gratuity admissible to him should be released, if not required otherwise. The respondents have withheld the amount on the ground that a criminal case is pending against the applicant.
(II) The learned counsel for the applicant has submitted that the verdict of the competent court, acquitting the applicant in the Criminal Case No.422/2012, was delivered on 23.10.2018 and copy of the same was produced on 02.08.2019.

(III) Today, when the matter was taken up for hearing, the learned counsel for the respondents submitted a document [which is taken on record], wherein orders were issued for granting revised provisional pension, gratuity, commutation of pension and GPF, etc to the applicant vide letter dated 25.06.2019 and in this regard, a further communication was also made on 01.08.2019. However, the learned counsel for the applicant submitted that till date, payment is not made to the applicant and, therefore, he has prayed that the same be directed to be released at the earliest.

(III) Thus, in view of the acquittal of the applicant in the criminal case, Tribunal is of the view that there is no hurdle in releasing the pension and pensionary benefits to the applicant. Consequently, the respondents are directed to grant regular pension and release pensionary benefits due to the applicant, as per their own orders cited supra, in accordance with law and rules, within a period of 30 days from the date of receipt of a copy of this order. There shall be no order as to costs.

With the above directions the OA is disposed of.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 14th day of August, 2019

nsn