IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2800 of 2015

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Md. Quasim Ansari, son of Late Md. Fakhruddin Ahmad, Superintendent(Retd.), Central Excise & Service Tax Division, Dhanbad, resident of C/86, Indrapuri Colony, P.O.-B.V. College, P.S. Shastri Nagar, District-Patna, Pin Code-800014(Bihar)

.... Petitioner/s

Versus

1.The Union of India through the Secretary(Revenue), Government of India, Ministry of Finance, Department of Revenue, New Delhi.

2. The Chairman, Central Board of Excise & Customs, Ministry of Finance, Government of India, North Block, New Delhi.

3. The Commissioner, Central Excise & Service Tax, Ranchi.

4. The Commissioner, Central Excise & Service Tax, Dhanbad.

5. The Senior Accounts Officer, Ministry of Finance, Department of Revenue, Pay & Accounts Office, Central Excise & Service Tax, Mahabir Tower, Main Road, Ranchi.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/S. Raju Giri, Santosh Kr. Mishra & Nikhil Kr. Agrawal

For the Respondent/s : Ms.Nivedita Nirvikar,SSCC & Mr.Chandan Kumar

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 12-10-2015

The petitioner, by this writ petition, challenges the order of the Accounts Officer by which he has refused to commute the pension or pay gratuity pending the departmental proceeding and the judicial proceeding.

2. The petitioner retired as Superintendent, Central Excise and Service Tax, Dhanbad Division. A departmental proceeding had been initiated against him as well as a prosecution had been launched against him for having assets disproportionate to his

known source of income. Both these proceedings had been initiated while he was in service. It is not in dispute that the departmental proceeding was ultimately quashed by a Division Bench of this Court recently. But, it is equally not in dispute that the criminal case lodged by the Central Bureau of Investigation for disproportionate assets is still pending. The Accounts Officer sanctioned only provisional pension. The petitioner challenged this before the Central Administrative Tribunal, Patna Bench,Patna without success, being order dated 17-11-2014 in OA/050/00298/2014. Hence, the writ petition.

3. We have heard Mr. Raju Giri, learned counsel for the petitioner and learned counsel for the Union of India, and with their consent, dispose of this writ petition at this stage itself.

4. In our view, rule 9(4) read with rule 69(1)(c) of CCS(Pension) Rules is sufficient to answer the contention, as raised by the petitioner. It is not in dispute that the judicial proceeding i.e., the criminal case instituted by the C.B.I, charging the petitioner for having assets disproportionate to his known source of income, is pending. That being so, in terms of rule 69 of CCS(Pension) Rules, only the provisional pension can be sanctioned. The provisional pension being sanctioned, there cannot be any commutation permissible, as commutation is of pension and not provisional

pension. Similarly, for the same reason, the judicial proceeding i.e., the criminal case for having disproportionate assets being pending, the gratuity cannot also be paid.

5. Thus, we find no merit in the writ application. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

B.K.Roy/-

(Nilu Agrawal, J)

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