

January 28, 2026
Sl. No.39
Court No.1
s.biswas

WPCT 237 of 2024

Subhas Saha
vs.
Union of India and others

Mr. Sanjib K. Mukhopadhyay
Mr. Timir Kanti Biswas

... for the petitioner

Ms. Reshmi Bothra
Ms. Sarda Sha

... for the respondent/Union of India

Per, Sujoy Paul, C.J.

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Mr. Sanjib K. Mukhopadhyay, learned counsel for the petitioner and Ms. Reshmi Bothra, learned counsel for the respondent Union of India, are heard on admission.
3. The petitioner assails the order of Central Administrative Tribunal dated 15.12.2023 whereby the Tribunal declined to grant him Death-cum-Retirement Gratuity (DCRG). The singular point raised by learned counsel for the petitioner is that no doubt the petitioner is facing criminal case and proceedings are pending, but said criminal case has nothing to do with his employment. Thus, department was not justified in withholding the DCRG.
4. Learned counsel for the department on the other hand placed reliance on para 8 to 10 of the

impugned order and supporting the same on the basis of Rules holding the field.

5. We have heard the parties at length.

6. Para 8 to 10 of the impugned order of Tribunal reads thus:

“8. *“Rule 9(3) of the Railway Services (Pension) Rules, 1993 provides “in the case of Railway servant who was retired upon attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or were continued under Sub-Rule (2) as Provisional Pension as provided in Rule 10 shall be sanctioned. Further, under Rule 10 (C) of the said rules no gratuity shall be paid to the Railway servant until the conclusion of the Departmental or Judicial Proceedings thereon and issue of final order thereon...”*

9. *The applicant has contended that the Judicial The applicant Proceeding pending against him is not related to the discharge of his official duties and has relied on certain judicial pronouncements in support of his contention.*

10. *Rule 3 (iii) of the Railway (Service) Conduct Rules states that, "Every Railway Servant shall at all times do nothing which is unbecoming of a Government Servant". Rule 3(i) states that, "Every Railway Servant is required to maintain absolute integrity". The applicant is facing trial before a Court of Sessions and is charged with serious criminal offences. Although, the offences alleged to be have been committed by the applicant do not have a direct bearing on the discharge of his official functions, they are very serious in nature and attracts exemplary punishment under the law. I am of the view that it is highly unbecoming of a Government Servant to face criminal charges of this nature. Hence, until and unless the applicant herein is acquitted of these charges by a competent Court of Law, Death-cum-Retirement Gratuity (DCRG) amount cannot be disbursed to him and nor can Provisional Pension be paid to him.”*

7. The Pension Rules considered and reproduced by learned Tribunal makes it clear that department is equipped with power to withhold the gratuity where criminal case/judicial proceedings are

pending. No amount of pleadings are devoted in the writ petition to assail the said finding. The singular argument, as noticed above, is that the allegations mentioned in the criminal case has nothing to do with the petitioner's employment. We do not see any merit in this contention because in the manner/fashion Pension Rules are couched, it is clear that whether or not the offence is related to employment, if offence falls within the ambit of Rules 9 and 10 of the Railway Services (Pension) Rules, 1993, the employer is empowered to withhold the gratuity. Thus, the Tribunal has taken a plausible view in consonance with governing statutory provision.

8. Thus, admission is declined. The petition is **dismissed**. However, this order will not come in the way of the petitioner to claim gratuity depending upon the outcome of the criminal case.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)