



2026:DHC:7388-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

# **CNR No. DLHC010117132021**

+ **W.P.(C) 2936/2021, CM APPL. 8830/2021**

**UNION OF INDIA & ORS.**

**.....Petitioners**

Through: Mr. Jagdish Chandra, CGSC  
with Mr. Lakshay Kumar and Ms. Maanya  
Saxena, Advs.

versus

**SH. JAMUNA DASS**

**.....Respondent**

Through: Mr. Prem Chand and Mr.  
Chander Bhan, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE VINOD KUMAR**

**JUDGMENT (ORAL)**

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**31.08.2026**

**The matter is being taken up today as 27 August 2026 was declared as a holiday.**

**C. HARI SHANKAR, J.**

1. This writ petition assails the judgment dated 26 October 2018 passed by the Central Administrative Tribunal<sup>1</sup> in OA 3437/2017.

2. By the impugned judgment, the Tribunal has allowed the OA.

3. We have heard Mr. Lakshay Kumar, learned Counsel for the petitioners and Mr. Prem Chand, learned Counsel for the respondent.

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<sup>1</sup> "Tribunal" hereinafter



2026:DHC:7388-DB



4. The issue in controversy is limited. It merely involves application of Rule 69(1)(c) of the Central Civil Services (Pension) Rules, 1972<sup>2</sup>.

5. The respondent was working as Tax Assistant in the Office of the Commissioner of Income Tax. While he was in service, criminal proceedings were instituted against him. The proceedings culminated in an order of conviction and sentence dated 23 January 2012 passed by the learned Special Judge, CBI. Prior thereto, the respondent superannuated on 31 December 2011.

6. The respondent challenged the decision of the learned Special Judge before this Court by means of Criminal Appeal 344/2012, which admittedly is still pending before this Court. In the said Criminal Appeal, by order dated 24 July 2012 passed in Criminal MB 685/2012, this Court suspended the order of sentence of the respondent dated 23 January 2012.

7. The respondent's contention was that the petitioner had illegally withheld the gratuity and leave encashment of the respondent.

8. It is not in dispute that the grievance with respect to leave encashment does not survive as the leave encashment has been released to the respondent.

9. The only issue, for consideration, is, therefore, whether the

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<sup>2</sup> "the Pension Rules" hereinafter



respondent was entitled to be released gratuity.

**10.** Before the Tribunal, as well as before this Court, the petitioners places reliance on Rule 69(1)(c) of the Pension Rules, which reads as under:

“(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon :

Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.”

**11.** The Tribunal has held that, as no disciplinary proceedings had been instituted against the respondent, and more than four years have passed since the respondent superannuated, no disciplinary proceedings could be instituted any further in view of the proscription contained in Rule 9(2)(b)<sup>3</sup> of the Pension Rules, which prohibits initiation of disciplinary proceedings, against a retired Government servant, in respect of an event which took place more than four years prior to such initiation.

**12.** We may reproduce, for ready reference, paras 8, 10 and 11 of the judgment of the Tribunal, thus:

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<sup>3</sup> (b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

(i) shall not be instituted save with the sanction of the President,  
(ii) shall not be in respect of any event which took place more than four years before such institution, and  
(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.



“8. The fact that though the applicant had been convicted by the CBI (Special Court) and in the appeal Hon'ble High Court has not set aside the conviction but, suspended the sentence, disciplinary proceedings have yet not been initiated. Therefore, as per Rule 9.2(b) since more than 4 years have elapsed since his retirement, and disciplinary proceedings are yet to be initiated, no reason has been assigned for non initiation of the disciplinary proceedings so far., departmental proceedings cannot now be instituted.

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10. In the present matter, the applicant was not suspended at the time of reaching the age of retirement and no disciplinary proceedings are pending against him, despite the fact that the criminal case has been decided against him and the conviction has not been stayed by any higher Court and there is no claim from the employer for the recovery of money. In fact, the LPC dated 23.12.2011 shows no outstanding dues.

11. Keeping in mind the above and since no disciplinary proceedings have been initiated against the applicant and no reason given for the same, despite the fact that almost seven years have passed since the retirement of the applicant, on reaching the age of retirement, the employer cannot now withheld the leave encashment and gratuity. The respondents are directed to make payment of leave encashment and gratuity due to the applicant. No interest will be payable thereon.”

13. Mr. Lakshay Kumar points out that the Tribunal has not noticed the fact that Rule 69(1)(c) applies not merely in the case of pending departmental proceedings but also in the case of pending judicial proceedings. Even though the proceedings before the learned Special Judge had come to an end, Criminal Appeal 344/2012, preferred thereagainst by the respondent, is still pending before this Court. Mr. Lakshay Kumar submits that it is not possible, therefore, to release the gratuity of the respondent in view of the proscription contained in Rule 69(1)(c) of the Pension Rules.



14. Besides submitting that the criminal proceedings have come to an end with the passing of the judgment and sentence by the learned Special Judge, Mr. Prem Chand, learned Counsel for the respondent is unable to advance any further submission with respect to Rule 69(1)(c) of the Pension Rules.

15. Mr. Lakshay Kumar, learned Counsel for the petitioners has also drawn our attention to a recent decision of the Supreme Court in ***Bikram Chand Rana v. Himachal Pradesh Road Transport Corporation***<sup>4</sup>, which also involves application of Rule 69(1)(c) of the Pension Rules. Paras 12 and 13 of the said decision read, thus:

“12. Such a submission totally misapprehends the nature of the Rule. As the learned Single Judge had rightly noted at the first instance, Rule 69(1)(c) operates as an ‘embargo’ or a statutory bar, not as an enabling provision. The use of the ordinary disjunctive “or” expands the scope of this bar, indicating that gratuity shall not be paid so long as either departmental or judicial proceedings are pending. The appellant places reliance on the case of ***Babu Manmohan Das Shah v. Bishun Das***<sup>5</sup>, specifically that:

“.....The ordinary rule of construction is that a provision of a statute must be construed in accordance with the language used therein unless there are compelling reasons, such as, where a literal construction would reduce the provision to absurdity or prevent the manifest intention of the legislature from being carried out. There is no reason why the word “or” should be construed otherwise than in its ordinary meaning. ....”

13. Applying the aforesaid reasoning, it is the construction advanced by the appellant that would in fact yield an anomalous result. *Rule 69(1)(c) of the 1972 Rules has a wide import and operates in respect of any proceeding that may be pending against an employee at the time of retirement; indeed, the breadth of the provision reflects its protective character.* If the appellant's interpretation were accepted, an employee could contend that once

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<sup>4</sup> 2026 SCC OnLine SC 535

<sup>5</sup> 1966 SCC OnLine SC 40



any one set of proceedings against him/her stands concluded, the embargo stands lifted and gratuity must be released. This would altogether defeat the purpose of the provision, which is to safeguard the financial interests of the State.”

(Emphasis supplied)

16. The issue in controversy is no longer *res integra* in view of the judgment of the Supreme Court in **Bikram Chand Rana**. Even otherwise, it is clear from Rule 69(1)(c) of the Pension Rules that the proscription against release of gratuity to an employee, who is facing judicial proceedings would continue till the judicial proceedings come to an end.

17. The expression “judicial proceedings”, indisputably, would also include Criminal Appeal 344/2012 filed by the respondent before this Court, which continues to remain pending.

18. The Tribunal has, therefore, erred in restricting its consideration to the fact that no disciplinary proceedings have been initiated against the respondent, ignoring the fact that the judicial proceedings continued to remain pending against him.

19. We, therefore, find no error in the decision of the petitioner to withhold the respondent’s gratuity so long as the judicial proceedings in the form of Criminal Appeal 344/2012 continue to remain pending before this Court.

20. Needless to say, once the criminal appeal is disposed of one way or the other, the respondent’s claim for gratuity would revive.



2026:DHC:7388-DB



**21.** For the aforesaid reasons, we are unable to sustain the impugned judgment of the Tribunal, which is therefore quashed and set aside. The writ petition is accordingly allowed in the aforesaid terms with no orders as to costs.

**C. HARI SHANKAR, J**

**VINOD KUMAR, J**

**AUGUST 31, 2026/***dd*