

Pension can't be withheld due to pending criminal case: CAT

Pension and increments of a public servant cannot be withheld only on the basis a pending criminal case against him unless he is convicted, the apex administrative tribunal has held.

"It is amply clear that only on the basis of the case pending against the applicant (Primary School Head Master Lakhi Ram), pension cannot be withheld under Central Civil Services (CCS Pension) Rules, 1972," a two-member bench of Central Administrative Tribunal headed by Justice Meera Chhibber said.

The bench also favoured releasing gratuity during the pendency of criminal case but with an earlier judgement of the CAT ruling against it, the bench referred the question on the gratuity issue to a larger bench.

"Gratuity cannot be withheld under rules of CCS Pension Rules. Otherwise also as per the provision (of) Payment of Gratuity Act, 1972, gratuity cannot be withheld," it said.

"Since we have taken a different view about release of gratuity during the pendency of criminal case than what had been held by the coordinate bench in another case in 2009, the matter may be placed before the chairman on administrative side for constitution of a larger bench to determine the clear position of law on the subject," the bench said.

The judgement came on a petition filed by Lakhi Ram, a Municipal Corporation of Delhi-run primary school headmaster, who retired in August 2007. He had been suspended on August 13, 2001 after his arrest in criminal case relating to a property dispute.

Though he was reinstated in May 2005 and retired in 2007, his annual increments were stopped from 2001 and were not restored even after his reinstatement in service. The court directed Education Department of Municipal Corporation of Delhi to grant increments to him from the date of his reinstatement to his superannuation and to fix his pay as per the sixth pay revision and determine his provisional pension.

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