



2026:AHC:149556

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15420 of 2018

Hanuman Prasad Yadav

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bramh Narayan Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(Sl. No.44)

A.F.R

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Bramh Narayan Singh, learned counsel for the petitioner and Sri Dilip Kesarwani, learned Addl. Chief Standing Counsel for the State.

2. Briefly stated facts of the case are that the petitioner was working on the post of Constable in U.P. Police department and has attained the age of superannuation on 31.3.2016. After his retirement, he was granted only the provisional pension but gratuity and leave encashment etc. was not granted to the petitioner due to the pendency of the Criminal Case being Case Crime No. 446 of 2008 under Sections 223/224 IPC, Police Station Wazeerganj, District Lucknow. It is stated by the learned counsel for the petitioner that the proceedings pursuant to the said criminal case are still pending before the criminal court for trial. The instant petition has been filed by the petitioner challenging the order dated 8.6.2016 whereby the gratuity and leave encashment has been denied to the petitioner due to pendency of the aforesaid criminal case.

3. Learned counsel for the petitioner has relied upon various judgments of Coordinate Benches of this Court as well as of Division Bench of this Court and has argued that unless there is a serious crime involved, the regular pension, gratuity and other retiral dues cannot be withheld by the respondents. In support of his case, petitioner has relied upon the following judgments:-

(i) Writ-A No. 15093 of 2020 (Devendra Kumar Sharma Vs. State of U.P. and others).

(ii) Writ-A No. 10536 of 2021 (Arun Kumar Singh Vs. State of U.P. and others).

(iii) Writ-A No. 8039 of 2018 (Udai Veer Singh Vs. State of U.P. and others).

(iv) Writ-A No. 17141 of 2012 (Ap Deo Narain Singh Vs. State of U.P. and others).

(v) Writ-A No. 26972 of 2013 (Santosh Kumar Singh Vs. State of U.P. and others).

(vi) Special Appeal Defective No. 440 of 2014 (State of U.P. and others Vs. Bal Kishan Tiwari).

(vii) Special Appeal Defective No. 687 of 2014 (State of U.P. and others Vs. Santosh Kumar Singh).

(viii) Writ-A No. 30100 of 2015 (Sukh Sagar Shukla Vs. State of U.P. and others).

4. Per contra, learned Addl. Chief Standing Counsel for the State has relied upon Regulations 351-AA and 919-A of the Civil Services Regulation as applicable in the State of U.P. and has submitted that Regulation 919-A (3) which categorically prohibits in categorical terms that no death-cum-retirement gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings or the enquiry by the Administrative Tribunal and issue of final orders thereon.

5. Learned Addl. Chief Standing Counsel for the State has relied upon the judgment of this Court in **Writ-A No. 24624 of 2017 (Krishna Chandra Pandey Vs. State of U.P.)**, 2018 Law Suit (All.) 3834 and submits that relying upon the aforesaid regulation, this Court has held that the gratuity and regular pension cannot be accorded to the government servant till the pendency of the criminal proceedings. He has further relied upon the Full Bench judgment of this Court in **Shivagopal and others Vs. State of U.P. and others**, reported in 2019 (5) ADJ 441 (FB) and submits that the Full Bench of this Court has categorically gone through the provisions of the aforesaid regulation and has concluded that the government servant/pensioner would have to wait until final order is passed in judicial

proceedings before claiming full pension and gratuity. In other words the cause to the government servant of taking remedy would arise after order of the competent authority is passed upon conclusion of the proceedings/enquiry.

6. Having heard the rival submissions of the learned counsel for the parties and perused the relevant materials available on record. The relevant issue involved in this case is whether the government servant can claim release of gratuity and other retiral dues and the regular pension during the pendency of the criminal proceedings against him.

7. In Writ-A No. 15093 of 2020 (Devendra Kumar Sharma Vs. State of U.P. and others), considering the Full Bench of this Court in **Shivagopal and others (supra)**, the Coordinate Bench of this Court has relied upon the observation made in para-39 of the Full Bench that only at the cost of serious crime, Regulation 919-A would apply and issued the directions to grant the gratuity etc. to the petitioner.

8. In Writ-A No. 10536 of 2021 (Arun Kumar Singh Vs. State of U.P. and others), another Coordinate Bench of this Court has relied upon the judgment in **Writ-A No. 67791 of 2014** (Shiv Sewak Prasad Vs. State of U.P. and others) and has held that since no pecuniary loss has been alleged in the criminal case, in such circumstances, the directions were issued to release the gratuity and other pensionary benefits to the petitioner, therein.

9. Writ-A No. 8039 of 2018 (Udai Veer Singh Vs. State of U.P. and others), Coordinate Bench of this Court has taken a view that due to long pendency of the criminal proceedings before the criminal court and since the petitioner was suffering from cancer and it was concluded that due to non conclusion of the criminal proceedings, petitioner cannot be made to suffer. Thus, the directions were issued to extent all retiral dues to the petitioner therein. However, it was further provided that in case of conviction in criminal case, authorities may recover the amount so paid to the petitioner. Against which Special Appeal Defective No. 859 of 2020 was filed which was dismissed vide order dated 24.11.2020. Against which Special Leave Petition was also filed which was dismissing in limine. The judgment in Udai Veer Singh (supra) was passed in peculiar facts of the case and do not lay down any law.

10. Likewise, in Writ-A No. 17141 of 2012 (Deo Narain Singh Vs. State of

U.P. and others), Coordinate Bench of this Court has held that since the petitioner was not an accused in the pending criminal proceedings, he was allowed to grant him pensionary benefits. Against the aforesaid judgment in Deo Narain Singh (supra), Special Appeal Defective No. 84 of 2013 was filed which was also dismissed vide order dated 24.1.2013.

11. Likewise, in Special Appeal Defective No. 440 of 2014 (State of U.P. and others Vs. Bal Kishan Tiwari), the Division Bench of this Court, having noted that since the criminal proceedings for the same allegations were also pending and the departmental proceedings were concluded and minor punishment was awarded to the petitioner and once for the same allegation, two proceedings are pending and the department ought to have waited for the final outcome of the proceedings, the decision thereafter to await the judgment of the trial on the same allegations, which may at best result into punishment to be awarded to the petitioner cannot be a ground on which pension and death-cum-retirement gratuity may be withheld.

12. Likewise, in Writ-A No. 26972 of 2013 (Santosh Kumar Singh Vs. State of U.P. and others), Coordinate Bench of this Court has allowed the writ petition despite the pendency of the criminal case and has directed that the gratuity amount to be released in favour of the petitioner alongwith interest. However, it is noteworthy that in the said judgment, the Coordinate Bench has not dealt with the provisions of Regulation 919-A of the Civil Services Regulation and the Special Appeal filed against the said judgment was also dismissed vide order dated 24.5.2016, without noticing the provisions of Regulation-919-A.

13. Likewise, in Writ-A No. 30100 of 2015 (Sukh Sagar Shukla Vs. State of U.P. and others), the Coordinate Bench of this Court has held that mere pendency of the criminal case before the trial court, does not entitled the authority to withhold the gratuity and leave encashment of the employee. In this case also the Division Bench has not noticed the provisions of Regulation 919-A.

14. In **Shivagopal (supra)**, the Full Bench of this Court has observed as under:-

*"31. On plain reading, **Article 351** confers power upon the State Government of withholding or withdrawing pension or any part of it, if the pensioner be convicted of 'serious crime' or be guilty of grave*

misconduct. In other words the State Government can withhold or withdraw pension on two grounds: (i) convicted of serious crime; (ii) guilty of grave misconduct; but not otherwise. In other words mere pendency of criminal case or disciplinary proceedings is not sufficient to withhold/or withdraw pension under Article 351.

36. Expression 'serious crime' would include offences having dangerous possible consequences. Black Law Dictionary defines serious offence as violation of law that is significant in effect and carries more than a six months punishment.

37. Section 2 (54) of Juvenile Justice Act, 2015, defines 'serious offence':

*"**serious offences**" includes the offences for which the punishment under the India Penal Code or any other law for the time being in force, is imprisonment between three to seven years."*

38. The expression 'judicial proceedings' includes civil cases, plausible civil cases where pension can be withheld/withdrawn would include matrimonial disputes, succession cases, right and entitlement of spouses and their children, domestic violence, civil death etc. involving the government servant.

*39. The expression 'serious crime' has to be understood in the context of service jurisprudence involving the government servant. It may be any act or omission which in the opinion of the competent authority is serious enough and calls for punitive action in terms of **Article 351**. It has no bearing with the quantum of sentence but with the nature of the offence and the degree of involvement of the government servant in the commission/omission of the crime.*

*40. **Article 351-A** empowers the Governor to withhold or withdraw pension or a part of it permanently or for specified period and order recovery from pension for pecuniary loss caused to the Government if the pensioner in departmental proceedings or in judicial proceedings, has been found: (i) guilty of grave misconduct or (ii) to have caused pecuniary loss to Government by misconduct or negligence during his service. The proviso to the Article spells out the circumstances/ conditions in which the departmental proceedings/judicial proceedings is required to be instituted for the purpose of withholding/withdrawing pension. Article 351-A reads thus:-*

"351-A [substituted vide notification dated 6 September 1961]. The Governor reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period

and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave misconduct, or to have caused pecuniary loss to Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement:

Provided that-

(a) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during reemployment-

(i) shall not be instituted save with the sanction of the Governor.

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceeding; and

(iii) shall be conducted by such authority and in such place or places as the Governor may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made.

(c) the Public Service Commission, U.P. shall be consulted before final orders are passed.

[Provided further that of the order passed by the Governor relates to a cash dealt with under the Uttar Pradesh Disciplinary Proceedings,(Administrative Tribunal) Rules, 1947, it shall not be necessary to consult Public Service Commission].

Explanation-For the purposes of this article-

(a) Departmental proceeding shall be deemed to have been instituted when the charges framed against the pensioner are issued to him or, if the officer has been placed under suspension from an earlier date, on such date ; and

(b) judicial proceedings shall be deemed to have been instituted:

(i) in the case of criminal proceedings, on the date on which complaint is made, or a charge-sheet is submitted, to a criminal Court ; and

(ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is

made to Civil Court.

Note- As soon as proceedings of the nature referred to in this article are instituted the authority which institutes such proceedings shall without delay intimate the fact to the Audit Officer concerned."

"66. The question that arises is whether the government servant/pensioner can seek intervention at a stage before the competent authority has had the occasion to pass appropriate order upon conclusion of the disciplinary/ judicial proceedings/or enquiry by Administrative Tribunal. We are of the opinion that such a course is not available to the pensioner and if allowed would entail serious consequences, otherwise not mandated by the Regulations. It is not open to the government servant/pensioner, in view of the conjoint reading of the Articles to preempt the pending proceedings/enquiry by walking away with pension/gratuity without awaiting the outcome/conclusion of the disciplinary/judicial proceedings/enquiry. The competent authority upon conclusion of the proceedings would be in a position to apply its mind on the outcome of the proceedings/enquiry and pass order thereon either withholding/withdrawing/ reduction of pension or directing recovery of pecuniary loss from pension under Articles 351/ 351-A of the Civil Service Regulations.

67. Article 351-AA/919-A came to be incorporated later (1980), the rule making authority was fully aware of the existing provisions, in particular, Article 351/351-A, but the rule making authority, in view of the plain and unambiguous language used therein (Article 351-A), while incorporating Article 351-AA/919-A, did not consider it appropriate to mandate the release of full pension/gratuity to the government servant until conclusion of the proceedings. The entitlement to provisional pension and deferment of gratuity during pendency of the proceedings was not made subject to any further conditions at that stage. The stage was deferred until orders thereon was required to be passed by the competent authority recording satisfaction or otherwise upon conclusion of proceedings/enquiry.

69. It, therefore, follows that the stage of passing appropriate order under Article 351/351-A by the competent authority is mandated at the conclusion of the proceedings and certainly not at the stage during pendency of the disciplinary/judicial proceedings.The cause to the pensioner would arise after the order is passed by the competent authority upon conclusion of the proceedings and findings returned thereon. In the opinion of the competent authority if the pensioner is guilty of grave misconduct, or convicted of serious crime, or caused pecuniary loss, the consequence under Article 351/351-A would follow.

The government servant/ pensioner would have to wait until such an order is passed before claiming full pension and gratuity. In other words the cause to the government servant of taking remedy would arise after order of the competent authority is passed upon conclusion of the proceedings/enquiry and not during pendency of the proceedings/enquiry."

15. The Full Bench of this Court has categorically dealt with the Regulations 351-A, 351-AA as well as Regulation -919 A and has finally concluded that the cause of action for passing the appropriate orders under Regulations-351 and **351-A** would arise only after the conclusion of the proceedings before the criminal court or the judicial proceedings or the disciplinary proceedings and if the aforesaid proceedings are pending, the Government Servant would have to wait unless such an order is passed before claiming pension and gratuity in view of Regulations 351-AA and 919-A .

16. In Krishna Chandra Pandey (supra) the Coordinate Bench of this Court has also dealt with the provisions of Regulations 351-AA and 919-A and has observed as under:-

[17] Firstly, the mere reference of a decision to a larger Bench for considering a perceived conflict does not detract from the dictum laid down therein. The principle, in law, as enunciated in the said decision continues to operate and bind this Court so long as it is not overruled. This was also the position propounded by the Supreme Court in Manager. National Insurance Company Ltd. Vs. Saju P. Paul 2013 2 SCC 41. Secondly, this Court notes that Bangali Babu Misra, Bal Krishna Tewari and Dr. Chandra Prakash perhaps, inadvertently, failed to notice the provisions of Regulations 351AA and 919A, which existed on the statute book at the time when these decisions were rendered. Thirdly and with respect to the view expressed in Kalika Prasad Yadav, this Court finds no conflict as such between Jai Prakash and Faini Singh. While Jai Prakash noticed the existence of the power vesting in the State to detain the release of gratuity and authorise payment of a provisional pension by virtue of the Regulations, noted above, Faini Singh only expanded upon the scope and the exercise of power thereunder. Faini Singh is not an authority for the proposition that gratuity cannot be withheld. It only elucidates the legal position that the power conferred by Regulations 351AA and 919A cannot be invoked mechanically or irrationally without adverting to circumstances, such as, the seriousness of the crime or charge levelled against the employee. It, principally, underlines the need

for the power to be exercised bona fide, with due circumspection and application of mind. This is evident when the Division Bench observes, "The discretion given should not consume the power for which such discretion is to be exercised."

[18] It would also be relevant to note that the decisions in Jai Prakash and Faini Singh have also been followed by two learned Judges of the Court in two separate decisions, namely, Narendra Pratap Singh Vs. State of U.P. 2015 11 ADJ 237 and Surendra Pal Vs. State of U.P., 2016 1 ADJ 370 [LB].

[19] Having recognized the basic principles, which would govern the invocation of Regulation 919-A, this Court reverts to the facts of the present case. As noted above, the petitioner is charged of commission of serious offenses under the IPC. The provisions of the Prevention of Corruption Act have also been invoked against him. The petitioner has failed to establish from the material on record that the commission of these crimes is unrelated to the discharge of his duties as a government servant. Tested of the anvil of the principles enunciated in Jai Prakash and Faini Singh, this Court finds no ground to hold that the view taken by the respondents, to deny disbursal of complete benefits, merits interference. Bearing in mind the seriousness of the allegations and the nature of the criminal charges which the petitioner is facing, this Court finds that the action of the respondents, duly authorized by Regulations 351AA and 919-A, is justified and valid.

17. From the cumulative reading of the aforesaid judgments, it is apparent that the most of the judgments relied upon by the learned counsel for the petitioner do not deal with Regulations 351-AA and 919-A of Civil Services Regulation and those orders were passed on the peculiar facts and circumstances of the case, though there is a reference of Regulation 919-A in the judgment of Arun Kumar Singh but the impact thereof has not been categorically dealt with in the said judgment. Thus, it is relevant to take note of the Regulations-351, 351-A and 351-AA and Regulation -919, which reads as under:-

"Regulation 351. *Future good conduct is an implied condition of every grant of a pension. The State Government reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave mis-conduct. The decision of the State Government on any question of withholding or withdrawing the whole or any part of pension under this regulation shall*

be final and conclusive.

NOTE—This rule is applicable to all the officers enumerated in Article 349 except Army Veterinary officers of the Civil Veterinary Department.

Regulation 351–A *The Governor reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave mis-conduct, or to have caused. Recuniary loss to government by misconduct or Negligence, during his service, including service rendered on re-employment after retirement; Provided that—*

(a) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-employment-

(i) shall not be instituted save with the sanction of the Governor,

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings, and

(iii) shall be conducted by such authority and in such place or places as the Governor may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made.

(b) judicial proceedings, if not instituted while the officer was on duty either before retirement or during re-employment, shall have been instituted in accordance with sub-clause (ii) of clause (a), and

(c) the Public Service Commission, U.P., shall be consulted before final orders are passed.

Explanation—For the purposes of this article—

(a) departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner are issued to him, or, if the officer has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to have been instituted :

(i) in the case of criminal proceedings, on the date on which a complaint is made, or a charge-sheet is submitted, to a criminal court; and

(ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is

made, to a civil court.

NOTE—As soon as proceedings of the nature referred to in this article are instituted the authority which institutes such proceedings shall without delay intimate the fact to the Audit Officer concerned.

Regulation 351-AA. *In the case of a Government Servant who retires on attaining the age of superannuation or otherwise and against whom any departmental or Judicial proceedings or any enquiry by Administrative Tribunal is pending on the date of retirement or is to be instituted after retirement a provisional pension as provided in Regulation 919-A may be sanctioned.*

Regulation 919-A. *(1) In case referred to in Regulation 351-AA the Head of Department may authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant or if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension.*

(2) The provisional pension shall be authorised for the period commencing from the date of retirement upto and including the date on which after conclusion of departmental or judicial proceeding or the enquiry by the administrative Tribunal; as the case may be, final orders are passed by the competent authority.

(3) No death-cum-retirement gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings or the enquiry by the Administrative Tribunal and issue of final orders thereon.

(4) Payment of provisional pension made under clause (1) above shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of the proceedings or enquiry referred to in clause (3) but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or withheld either permanently or for special period."

18. On plain reading of Regulation 351, it appears that Regulation-351 confers power on State Government for withholding or withdrawing the pension or any part of it, if the petitioner has committed serious crime or guilty of grave misconduct but not otherwise. Regulation 351 deals with the circumstances where the government servant has already been convicted

or held guilty of grave misconduct.

19. Regulation 351-A empowers the Governor to withhold or withdraw pension or a part of it permanently or for specified period and order recovery from pension for pecuniary loss caused to the Government if the pensioner in departmental proceedings or in judicial proceedings, has been found: (i) guilty of grave misconduct or (ii) to have caused pecuniary loss to Government by misconduct or negligence during his service. The proviso to Regulation 351-A spells out the circumstances/ conditions in which the departmental proceedings/judicial proceedings is required to be instituted for the purpose of withholding/withdrawing pension.

20. Regulation 351-AA provides whether any departmental or Judicial proceedings or any enquiry by Administrative Tribunal is pending on the date of retirement or is to be instituted after retirement a provisional pension as provided in Regulation 919-A may be sanctioned. Regulation 919-A sub clause (1) enables the head of the department to provide the provisional pension to be released. Sub clause (2) provides that the provisional pension shall be authorised from the date of retirement till conclusion of the departmental or judicial proceedings as the case may be. Clause (3) of the Regulation 919-A provides that no Death-cum- retirement gratuity shall be paid to the government servant until the conclusion of the departmental or judicial proceedings or the inquiry by the administrative tribunal. Clause-(4) provides that an amount of the provisional pension shall be adjusted against the final retirement benefits on conclusion of the proceedings or inquiry. Thus, from the aforesaid reading of the provisions of Regulations 919-A and 351-AA, it is apparent that the provision for grant of provisional pension has already been made pending the judicial proceedings, departmental proceedings or the proceedings before the Tribunal, if any.

21. The facts of the instant case is that in the year 2008, petitioner was assigned the duty to escort the accused of the Gangster Court at Lucknow and the said accused had escaped from the custody of the petitioner and for the said action of the petitioner, a first information report being Case Crime No. 446 of 2008 under Sections 223/224 IPC, Police Station Wazeerganj, District Lucknow was lodged against the petitioner. Proceedings with regard to said criminal case is stated to be pending. However, for the said act of the petitioner, departmental proceedings were

also initiated against the petitioner under Rule 14 (i) of 1991 Rules and finally the punishment order was passed on 5.10.2010, dismissing the petitioner from service.

22. Being aggrieved by the same, petitioner has approached the High Court and the writ petition filed by the petitioner was allowed vide judgment and order dated 10.4.2013 with liberty to the respondents to pass a fresh order after giving show cause notice to the petitioner with regard to the proposed punishment awarded to the petitioner. Pursuant to the aforesaid order, a show cause notice was issued to the petitioner and thereafter punishment order was passed on 26.9.2013 against the petitioner reverting him on minimum pay scale for a period of one year and thereafter vide Government Order dated 25.11.2013, petitioner was communicated that he is not entitled for the salary for the period between 5.10.2010 till 14.7.2013, during which period he has not performed any duty. Regulation 351-AA of the Civil Services Regulation provides that if any departmental or judicial proceedings are pending after the retirement of a government servant, only provisional pension as provided in Regulation 919-A may be sanctioned to such a government servant. Regulation 919-A categorically provides that no death-cum-retirement gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings or the enquiry by the Administrative Tribunal and issue of final orders thereon.

23. In the instant case, though for the same allegations, the disciplinary proceedings as well as the criminal proceedings both were initiated against the petitioner and since the criminal proceedings could not be concluded for a long period, the disciplinary proceedings were concluded by the department and punishment order was passed which was initially set aside by the learned Single Judge on the ground that no show cause notice was issued to the petitioner after completion of inquiry and before passing the punishment order and the learned Single Judge has already given the liberty to issue show cause notice to the petitioner and pass a fresh order of punishment consequently, after giving show cause notice to the petitioner, therefore, the order of punishment has been passed whereby the punishment of reversion of minimum pay scale for a period of one year was awarded to the petitioner. However, undisputedly and admittedly the criminal proceedings are still pending against the petitioner with regard to the act of the petitioner i.e. due to negligence on the part of the petitioner,

an accused of Gangster Act has absconded from the custody of the petitioner. The said offence may be of deliberate in nature on the part of the petitioner or an act of negligence on the part of the petitioner but the same is a very as it impacts the efficient administration of justice as a whole and such negligence may paralise the entire judicial as well as police administration. Thus the allegation against the petitioner is of very serious in nature and cannot be curtailed only to the negligence on the part of the petitioner and with regard to which criminal proceedings are still pending against the petitioner.

24. In the instant case, therefore, Regulations-351 and 351-A would not apply. Regulation 351-AA and Regulation 919-A would apply in the instant case which categorically provide that once criminal proceedings or judicial proceedings are pending against a government servant, during the pendency of such proceedings, only provisional pension shall be accorded to such government servant and gratuity and death-cum-retirement benefits cannot be released to such government servant against whom judicial proceedings are pending.

25. In the instant case, petitioner has already been released provisional pension and other benefits, however, the final retirement dues and gratuity etc. has not been paid to the petitioner for which the instant petition has been filed. In view of the categorical prohibition made in Clause-(3) of the Regulation 919-A, the petitioner, in the considered opinion of this Court, is not entitled for the release of the gratuity and final retirement dues and seriousness of the offence is an irrelevant fact with regard to the applicability of Regulation 919-A as well as Regulation 351-AA. Hence, the petitioner is not entitled for any relief, at this stage, till the conclusion of the proceedings in the pending criminal case against hence.

26. Accordingly, the instant writ petition fails and is hereby **dismissed**. However, the petitioner is at liberty to approach the respondents for release of the gratuity, subject to his acquittal in the said criminal case. In case of his acquittal, petitioner would be entitled for all retiral dues including gratuity etc.

July 21, 2026

n.u.

(Anish Kumar Gupta,J.)