

## **Govt employee cannot be denied pension through admin order: SC**

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**A government employee cannot be deprived of his pension and gratuity by administrative order as the right to receive pension is recognised as a Constitutional right to possess property, the Supreme Court has held.**

The apex court explained that executive instructions do not have statutory character and, therefore, cannot be termed as “law” which could allow the government to divest the employee of his right as enshrined under Article 300A of the Constitution.

“The fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognised as a right to ‘property’. A person cannot be deprived of this pension without the authority of law,” a bench of Justices K S Radhakrishnan and A K Sikri said “It is an accepted position that gratuity and pension are not bounties. An employee earns these benefits by dint of his long, continuous, faithful and un-blemished service. It is, thus, hard earned benefit which accrues to an employee and is in the nature of ‘property’. This right to property cannot be taken away without the due process of law as per the provisions of Article 300A of the Constitution,” the bench added.

The court dismissed an appeal filed by Jharkhand government challenging a 2007 order of the HC’s division bench which had disallowed it to deny pension and gratuity benefits to Jitendra Kumar Srivastava, who worked with animal husbandry department, due to a pending criminal case against him.

Srivastava was deprived 10 per cent of his pension and salary benefits for seven months of his suspension under the garb of pension rules circulars.

Going into the facts of the case, the bench said on the basis of such a circular, which is not having force of law, the government cannot withhold even a part of pension or gratuity.

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