

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00342/2018

Reserved on : 09.01.2020

Jodhpur, this the 21st January, 2020

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

M.L. Khatri S/o Shri Arjun Mal, Aged 81 years, R/o 3N2 Kudi Bhagtasni Housing Board Jodhpur. (Retired Assistant Engineer B&R) in the office of Garrison Engineer (Army) Central, MES Multan Lines, Jodhpur

.....Applicant

By Advocate : Mr S.P. Singh.

Versus

1. Union of India, through the Secretary, Govt. of India, Ministry of Defence, Raksha Bhawan, New Delhi-11.
2. Under Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi-11.
3. Garrison Engineer (Army) Central, MES, Multan Lines, Jodhpur.
4. Garrison Engineer, MES, Lalgarh Jattan, District-Shri Ganganagar.
5. Chief Controller of Defence Accounts (Pension), Draupati Ghat, Allahabad.

.....Respondents

By Advocate : Mr K.S. Yadav.

ORDER**Per Smt. Hina P. Shah**

This Original Application has been filed by the applicants under Section 19 of Administrative Tribunals Act, 1985 seeking following reliefs:

- i) That by the writ order, or direction the impugned order vide Memo No. Legal/13-14/b-3 dated 27.01.2016, **Annexure-A/1**, may kindly be declared improper, illegal and deserves to be quashed and set aside.
- ii) That paras suspension order dated 11 Feb 1991, **Annexure-A/3**, paras 4.7, SF, and SG, Memorandum (charge-sheet) dated 11 Feb 1991, **Annexure-A/4**, paras 4.16 and 5D and penalty imposition dated 22 Feb 1995, **Annexure-A/5**, para SH may kindly be quashed.
- iii) That it is further prayed that respondents may please be directed to make payment of salary for the months of Dec 1990, **Annexure-A/12, A/13** and para 4.10 and also for the period 01 Jan 1991 to 10 Feb 1991, **Annexure-A/13**, and para 4.10 with compensation and 12% interest on the amount from the due dates till date of payment is made, payment of Rs 6908.00, Rs 2327.00, Rs 1251.00, Rs 200.00 and Rs 586.00 recovered from pay bills dated 28/01/1993, 10/08/1989, 09/08/1990 and Nov 1990 **Annexure-A/13**, and para 4.10, refund of Rs 3885.00 recovered illegally, **Annexure-A/14** and para 4.1 payment of arrears of pay and allowances including CCA and HRA for the period 11/02/1991 to 31/10/1994 by granting due four increments in pay on 01/02/1991, 01/02/1992, 01/02/1993 and 01/02/1994 with 12% interest from due dates till dates of payment is made, para 4.11, payment of encashment of earned leave 70 days to credit of applicant upto 03/07/1991, **Annexure-A/15** and for remaining period from 04/07/1991 to 31/10/1994 including 15 days joining

time credit with 12% interest, para 4.11, payment of Rs 4891.00 of transfer TA bill para 4.11, payment of HRA from 15/07/1994 to 31/10/1994, para 4.11, refund of total amount of penalty imposed with 12% interest on the amount from 01/01/1995 till dates of payments of refund amount of penalty is made, Para SE, **Annexure-A/5.**

- iv) That it is also further prayed that applicant is entitled to be granted heavy cost prayed for compensation of Rs 10,00,000.00 on account of illegal suspension as explained in para 4.8 above, Rs 5,00,000.00 on account of not granting four increments in pay during the period of illegal suspension from 11/02/1991 to 30 Oct 1994 as explained in para 4.11 above, Rs 3,00,000.00 on account of delayed payments of illegal subsistence allowance made with reduced rates of pay and allowance during period of illegal suspension caused by illegal suspension order as explained in para 4.12 above and Rs 5,00,000.00 on account of illegal penalty imposition order due to false fake, fictitious and fraudulent charge-sheet as explained in paras 4.16 and SE above.
- v) That the respondents, particularly respondent No. 5 may please further be directed to revise the pension, gratuity and other reitral (retire) benefits after being granted four pending due increments in pay to the applicant and based on this to make payment of arrears amount with 12% interest from due dates of payment of arrears till payment is made, para SE. Respondents may please also be directed to get verified by the applicant all arrears bills before processing same for audit and payment.
- vi) That it is also prayed that heavy cost of application of Rs 50,000.00 may kindly be awarded to the applicant for litigation process for the last more than four years since respondents have failed to provide entitled relief for the last more than 27 years.
- vii) That any other direction or order for providing any additional relief may please be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of

this case considering disrupted life of the applicant for the last more than 27 years at the juncture of 81 years of suffering in life of the applicant in the interest of justice.

2. It is the case of the applicant that charge-sheet was issued to him under Rule 14 of CCS (CCA) Rules, 1965 and he was suspended on 11.02.1991. The disciplinary proceedings continued even after his suspension and on the direction of the President, he was awarded punishment of 50% cut of his pension for 05 years and 50% cut in his DCRG. Though he superannuated on 31.10.1994, he was continued to be under suspension as suspension order was not reviewed even after expiry of 90 days. Thereafter he made several representations, revision petitions and approached this Tribunal by filing OA No. 290/00061/14 wherein this Tribunal passed its order on 19.02.2015 directing the respondents to finalise the issue regarding regularization of suspension period of the applicant and the increments, if any, for that period, and any resultant due payment be paid within 03 months from the date of receipt of the copy of that order. Since the respondents failed to finalise the issue within time, the applicant was required to file Contempt Petition No. 43/2015 wherein this Tribunal issued notices to the respondents. After receipt of notice, respondent No. 2 vide order dated 27.01.2016 (Annex. A/1) informed the applicant that he is not entitled for regularization of suspension period and any increment which he had sought in his representation. Respondent No. 2 also passed

direction that the applicant is not entitled for revision of pension, gratuity as well as retiral benefits. The applicant again represented before the respondents vide his application dated 05.02.2016. Therefore, the applicant was compelled to file the present OA as order passed by the respondent No. 2 dated 27.01.2016 is illegal, without any legal justification and therefore, prayed that the same be quashed and set aside.

3. The respondents, on the other hand, have raised preliminary objections towards maintainability of the OA. It is their contention that after following due procedure, the action against the applicant was taken and he was chargesheeted on 11.02.1991 by placing him under suspension. During pendency of disciplinary proceedings, the applicant attained superannuation and therefore, proceedings pending against him were continued under Rule 9 of the CCS (Pension) Rules, 1972. It is the claim of the respondents that the President after agreeing with the findings of the Inquiry Officer had found the applicant guilty, therefore, punishment of 50% cut in pension for five years and 50% cut from DCRG was imposed upon the applicant vide order dated 22.02.1995 (Annex. A/5). The said order had attained finality and was not challenged by the applicant till 2018 approx. 24 years. Even when the applicant filed OA No. 290/00061/14 before this Tribunal, he had sought direction against the respondents for payment of salary and increments for the period between

01.02.1991, 01.02.1992, 01.02.1993 and 01.02.1994 as during the said period, applicant remained under suspension and only subsistence allowance was paid to him. The applicant had sought revision of pension, gratuity and other retiral dues by granting his annual increments during the said period alongwith the payment of earned leave of 37 days. The said OA was disposed of by this Tribunal vide order dated 19.02.2015 (Annex. A/6) with the direction to the respondents to pass appropriate orders regarding suspension period of the applicant and finalize the issue pertaining to regularising the suspension period within 03 months from the date of receipt of copy of the order. In continuation to the directions of this Tribunal, respondents passed order dated 27.01.2016 whereby the competent authority declined to regularize the suspension period of the applicant. The applicant filed OA No. 290/00180/2016 challenging the order dated 27.01.2016 but the said OA was dismissed as withdrawn with the liberty to file fresh OA vide order dated 03.07.2018. The applicant has filed the present OA to quash charge sheet dated 11.02.1991 (Annex. A/4) and order dated 22.02.1995 (Annex. A/5) wherein the penalty was imposed upon him way back, i.e. 24 years ago. The applicant in the present matter is trying to club several cause of action and has prayed multiple reliefs which cannot be permitted to be done as per CAT (Procedure) Rules,

1987 (hereinafter referred to as Procedure Rules). Rule 10 of Procedure Rules is as follows :

Plural remedies.—An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.

4. In the present case, it is seen that the applicant has challenged issuance of charge sheet dated 11.02.1991 (Annex. A/4), order dated 22.02.1995 (Annex. A/5) and order dated 27.01.2016 which pertains to non-payment of salary, non-grant of earned leave, denial of increments etc. These reliefs have independent cause of action and it is clear that they had arisen at different points of time. But, the applicant has tried to club various cause of actions and accordingly, the respondents pray that for each cause of action, a separate OA is required to be filed by the applicant. Thus, respondents submitted that as per Rule 10 of Procedure Rules, present OA is liable to be dismissed. Respondents have also raised the plea of limitation praying therein that respondents passed order dated 22.05.1995 under Rule 9 of CCS (Pension) Rules 1972 and applicant challenged the same after 25 years. Despite opportunity being given to the applicant to challenge the same, he had chosen to file the first OA in the year 2014 for suspension period only, without any application for condonation of delay. Therefore, in absence of any application for condonation of delay, the present OA is liable to be dismissed in toto in absence of any explanation about the

said delay. Also, order dated 22.02.1995 was passed 24 years ago, therefore, it is very difficult for respondents to preserve the record of disciplinary proceedings. Thus, respondents prayed that the applicant should have approached this Tribunal by filing separate OAs and as multiple reliefs have been sought and multiple cause of actions have been challenged by the applicant, therefore, present OA is liable to be dismissed.

5. The applicant thereafter rebutted the preliminary objections by way of rejoinder stating therein that plea of multiple reliefs raised by the respondents is not sustainable in the eyes of law as the suspension, increments, pay, gratuity and pension are all consequential. Therefore, the applicant prayed that there is no question of applicant seeking multiple reliefs and question of limitation also does not arise as the matter pertains to pay and pension. He thus submitted that objections raised by the respondents cannot be permitted and the present OA deserves to be allowed with consequential benefits.

6. We have heard rival contentions of the parties and considered material available on record. Learned counsel for the applicant as well as the respondents reiterated the averments made on record.

7. It is clear from the pleadings that the applicant has tried to club many reliefs in this OA. The applicant had earlier filed OA

No. 290/00061/14 wherein his prayer was only pertaining to the due increments from 01.02.1991 to 01.02.1994. In the said OA, he had also sought revision of pension, gratuity and other retiral benefits. The applicant had also prayed for payment of earned leave of 37 days alongwith interest. The said OA was disposed of by this Tribunal vide its order dated 19.02.2015 (A/6) with the direction to the respondents to finalize the issue regarding regularization of suspension period of the applicant and the increments, if any for that period and any resultant due payments to be made within a period of 03 months from the date of receipt of copy of the order. In compliance of the said order, the respondents had issued order dated 27.01.2016 (Annex. A/1). The competent authority in the said order had reached to the conclusion that the applicant is not entitled for regularization of his suspension period, grant of increments etc. during the suspension period. It was also observed that he is not entitled for revision of pension, gratuity or any resultant due payments on his retiral benefits. The applicant had then filed OA No. 290/00180/2016 challenging the order dated 21.07.2016 (Annex. A/1). The same was withdrawn by the applicant with the liberty and this Tribunal vide order dated 03.07.2018 granted liberty to the applicant to file fresh OA. It is seen that the applicant has filed present OA seeking multiple reliefs. The applicant is trying to

club several cause of actions pertaining to different dates, claiming several reliefs in a single OA, i.e. present OA.

8. From the present OA, it is clear that the applicant has sought relief pertaining to quashing of charge sheet dated 11.02.1991 (Annex. A/1), payment of salary of the month of December, 1990 (Annex. A/12), payment of salary for the period 01.01.1991, 10.02.1991 (Annex. A/13) for quashing and setting aside penalty order dated 22.02.1995 (Annex. A/5). The applicant is seeking payment of arrears of pay and allowances including CCA and HRA from the period 11.02.1991 to 31.10.1994 by granting due 04 increments with interest, payment of encashment of earned leave of 70 days to the credit of the applicant upto 03.07.1991. He is also praying for refund of total amount of penalty imposed on him with 12% interest from 01.01.1995 till the date of refund amount of penalty is made. It is clear that as per Rule 10 of the Procedure Rules, plural reliefs cannot be claimed. Rule 10 reads as under :

Plural remedies.—An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.

Thus, it is clear that the applicant is challenging different cause of actions which had arisen at different points of time and seeking plural reliefs which are not consequential to one or other relief.

9. The applicant has challenged charge-sheet dated 11.02.1991 (Annex. A/4) and penalty order dated 22.02.1995 (Annex. A/5) as

well as the order dated 27.01.2016 (Annex. A/1) passed by the respondents on the directions of this Tribunal given vide order dated 19.02.2015 in earlier O.A. No. 290/00061/14. We noticed that the charge sheet was issued to the applicant in the year 1991 which culminated into penalty order dated 22.02.2015 after inquiry. The applicant for the first time approached this Tribunal in the year 2014 only seeking regularization of the suspension period and consequential benefits thereof and this Tribunal directed the respondents to finalize issues regarding the regularization of suspension period as no order had been passed by the respondents regarding treatment of suspension period as per averment of learned counsel for the applicant recorded in para 6 of the order dated 19.02.2015 (Annex. A/6) passed by this Tribunal in OA No. 290/00061/14. The respondents have complied with the direction of this Tribunal by issuing order dated 27.01.2016 (Annex. A/1) stating therein that the applicant is not entitled for regularization of his suspension period, grant of increments etc. during the suspension period. Meaning thereby that applicant is not entitled for any increment or other service benefits for the suspension period and formal order in this regard which had not been issued earlier when the matter was taken up by this Tribunal in OA No. 290/00061/14, has now been issued by the respondents pursuant to directions of this Tribunal. Accordingly, any residual issue arising out of charge sheet dated

11.02.1991 and penalty order dated 22.02.1995 had already attained finality. So far as challenge made by the applicant to charge sheet and penalty order is concerned, the applicant having accepted the same for almost 23 years and penalty of reduction in pension also which has got over way back, now has no justifications, nor any legal grounds whatsoever to assail the validity of the same at this belated stage.

10. Accordingly, we find no cogent reasons put forth by the applicant to make a challenge to the legality of charge sheet dated 11.02.1991, penalty order dated 22.02.1995 at this belated stage, i.e. almost after 23 years and the same is also not supported by any application for condonation of delay explaining reasons for delay. The contentions raised by learned counsel for the applicant that pay and allowances is recurring cause of action is not tenable as penalty had been imposed on the applicant in the year 1995 and resultantly the applicant had not been granted increments and other service benefits which otherwise would have been available to him. Hence, root of multiple reliefs claimed by the applicant goes to the penalty order dated 22.02.1995 (Annex. A/5) which is one time occurrence and not at all recurring.

11. Further, we find no illegality in order dated 27.01.2016 (Annex. A/1) passed in pursuance of directions issued by this

Tribunal. On perusal of the order dated 19.02.2015 (Annex. A/6) passed by this Tribunal in OA No. 290/00061/14, we find that on specific contention of the learned counsel for the applicant that status of suspension period of the applicant has not been conveyed by the respondents on the ground that matter is pending with higher authorities. In these circumstances, this Tribunal while disposing the said OA, directed the respondents to finalize the issue by order dated 27.01.2016 denying any service benefit of the suspension period to the applicant. In our view, the respondents were only required to convey formal order with regard to status of suspension period of the applicant and the same has been done by them pursuant to directions of this Tribunal. Hence, we see no reason to interfere with the order dated 27.01.2016.

12. Accordingly, in our considered view, present OA is not only barred by limitation, suffers from vice of multiple reliefs claimed in a single application but also lacks merits for any further adjudication by this Tribunal.

13. In view of discussions hereinabove made, OA is dismissed with no order as to costs.

[Archana Nigam]
Administrative Member
 Ss/-

[Hina P. Shah]
Judicial Member