

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 2574/2001

NEW DELHI THIS 11TH DAY OF JANUARY 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri V P Bhatia,
S/o Sh. T D Bhatia,
R/o IJ-14A, NIT Faridabad

.....Applicant

(By Sh. S.K.Gupta, learned proxy counsel for Sh. B.S. Gupta
Advocate)

VERSUS

1. Union of India,
Through Secretary,
Min. of Human Resources & Development
Shastri Bhawan, New Delhi
2. Director General
Archeological Surey of India,
Janpath, New Delhi
3. Superintending Archeologist,
Archeological Survey of India,
Safdarjung Tomb, New Delhi
4. Pay and Acounts Officer,
Archeological Survey of India,
Janpath New Delhi

.....Respondents

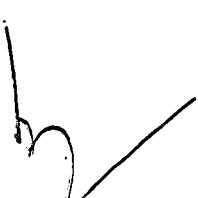
(By Sh. K.R. Sachdeva, Advocate)

ORDER (ORAL)

Reliefs sought for in this OA are as below:

- i) to direct the respondents to refund the final pension and pensionary benefits like DCRG, leave encashment, commutation of pension, CGEIS and Final pension for which the amounts have been mentioned in the facts of the case, along with the interest at the rate of 18% p.a. from the date of accrual and up to the date of payment immediately;

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ii) to pass such other and further order which this Hon'ble Tribunal may deem fit and proper.

2. Heard S/ Sh. S K Gupta and K R Sachdeva, learned counsel for the applicant and the respondents respectively.

3. The applicant had retired as Sr. Conservation Asstt. from the Archaeological Survey of India on 28.2.2001. Having joined as a Foreman on 1.6.1962 and having been promoted in succession as Conservation Asstt. Grade II, Grade I and finally as Sr. Conservation Asstt. , he had at the time of retirement become entitled for getting pension and full pensionary benefits. Though neither at the time of his retirement nor thereafter the applicant was facing no departmental enquiry nor any judicial proceedings and as such entitled to get the pensionary benefits settled fast, the applicant received only the GPF amount and provisional pension while DCRG, leave encashment, value of commutation pension and CGEIS and final pension have not been released. The applicant's representation for the release of the above with interest had been replied by the respondents on 13.8.2001 by endorsing a copy of their letter to Supdtg. Archaeologist of Delhi circle calling upon him to furnish his comments on the applicant's representation , alongwith reasons for non payment of pensionary benefits. Nothing has happened thereafter leading to the filing of this O.A. Sh. S K Gupta, learned counsel reiterates the above fervently and states that pensionary dues could not be held back by the respondents without any proceedings , either disciplinary or criminal, having been initiated

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against him and that his case was squarely covered by the decision of the Tribunal in the case of V.C Pandey and others Vs. Union of India [1996-34 ATC -214] and of the Hon'ble Supreme Court in Vijay L. Mehrotra Vs. State of UP and Others [2000(2) SLR 686]. In the above circumstances his retiral benefits should be released to him with interest @18% , without any fail, argues the learned counsel for the applicant.

4. In the reply filed by the respondents, duly reiterated by Sh. K R Sachdeva learned counsel , it is pointed out that the applicant has been guilty of non disclosure of certain material facts. According to the respondents Govt. cash amounting to Rs.83,870/- , which was in the custody of the applicant while in service, is outstanding against him , as the same was stated to have been stolen from the chest kept in his office , Haus Khas -Sub circle New Delhi, on 18.2.1997. Disciplinary proceedings under CCS(CCA) Rules 1965 is contemplated against the applicant. After the preliminary enquiry conducted against the applicant a report had been submitted to the Directorate for issuing a charge sheet to the applicant. After examining the said report Director General, Archaeological Survey of India has directed a fresh enquiry , in view of certain lacuna~~g~~noticed in the said report. The report on the same is likely to be submitted to the DG shortly, where after a decision will be taken. Since Government money entrusted with the applicant is outstanding against him it would not be proper to release full amount of DCRG. The OA therefore, does not merit any consideration, according to Sh. Sachdeva.

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5. I have carefully considered the matter. The facts are not disputed. Though the applicant has retired on superannuation on 28.2.2001, only the provisional pension and the GPF amount have been released to him. Other dues like DCRG, leave encashment, value of commutation of Pension and CGEIS amount are to be released. The respondents are holding ^{up} the same on the ground that an amount of Rs.83,870/- is outstanding against the applicant and that disciplinary proceedings are contemplated against him. The fact is that even now no such proceedings have been initiated, therefore he would be entitled for the release of the above pensionary amounts held back by the respondents. The decisions of the Hon'ble Supreme Court in the case of ^(Syda) Vijay Mehrotra would be applicable in his case. The said order is reproduced as below:-

"2. The appellant retired from service on 31st August 1997. From the response filed by the respondent, it is clear that most of the payment of the retiral benefits to her were made long after she retired on 31st August, 1997. The details of the payments so made are as under:

i) GPF 90%	Rs. 1,80,899.00	27.11.1997
ii) GPF 10%	Rs. 20,751.00	25.04.1998
iii)GIS	Rs. 13,379.00	27.02.1998
iv) Encashment of leave	Rs. 41,358.00	27.09.1998
v) Arrears of pay	Rs. 15,495.00	27.09.1998
vi) Gratuity	Rs.1,09,753.00	05.12.1998
vii) Commuted pension	Rs. 20,484.00	05.12.1998
viii)Detained amount	Rs. 45,000.00	05.12.1999

3. In case of an employee retiring after having rendered service, it is expected that all the payments of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.

4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay to the appellant within 12 weeks from today simple interest at the rate of 18% with effect from the date of her retirement. i.e. 31st August, 1997, till the date of payments.

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5. The appeal is allowed to the above extent."
6. The facts of the present OA being similar to those in the case referred above the decision in this case would become applicable in this OA as well, subject of course, to one difference and that relates to the case of the outstanding amount of Rs. 83,870/- standing against the applicant. Proceedings, the respondents say, are contemplated against the applicant in respect of the said amount though nothing has been done so far. It has also not been alleged or proved that the applicant was specifically responsible for the loss of the same amount. Still the respondents as of now, have a legitimate claim against the applicant in respect of the said amount, till the case regarding its loss is settled. Therefore, I feel that the remaining amount can be released to the applicant on payment of some interest for the period from the date such amounts became due i.e from the date of his superannuation of 28.2.2001, till the date of their actual disbursement.
7. In the above circumstances the application succeeds to a substantial extent and is accordingly disposed of. The respondents shall release to the applicant within three months from the date of receipt of a copy of this order, the withheld amounts of leave encashment, commutation value of pension and CGEIS and 66,930/- out of DCRG, retaining with them the balance of Rs.1,00,000/- till the proceedings in respect of

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outstanding amount is determined. These amounts shall also carry an interest of 12% from 1.3.2001 to the date of actual payment. No costs.

(Govindan S. Tampli)
Member (A)

Patwal/