

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.2677/2001

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Hon'ble Shri Shanker Raju, Member(J)

Thursday, this the 6th day of June, 2002

Lal Chand Sharma
s/o Sh. Nanu Ram Sharma
r/o 18A, Pocket-A, Dilshad Garden
Delhi - 110 095. Applicant

(By Advocate: Shri S.K.Rungta)

Vs.

Government of National Capital
Territory of Delhi
through its Secretary (Education)
Players Building, ITO
New Delhi. Respondent

(By Advocate: Shri Shri Vinod Rathi, proxy of
Shri Rajan Sharma)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the learned counsel on either side.

2. Applicant, who retired on superannuation in the year 2001, impugns inaction on the part of the respondents whereby the amount due to him on account of deduction made against Compulsory Deposit Scheme of Rs.742/- with interest has not been paid to him.

3. On introduction of Scheme of the Government of India in respect of Additional Emoluments Compulsory Deposit in the year 1974 for deposit the instalment of dearness allowance conducted from time to time, the repayment of the deduction made under the schemes are to be reimbursed as and when they fell due. However, the payments started to be made only in the year 1977 and on review by the Ministry of Finance the same was stopped in the year 1992. As per the Scheme and letter issued in 1995,

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Annexure-A1, it has been decided that the amount of payment of the old claims of C.D.S. is debit able to the minor heard "119-Addl. Wages Deposits Suspense Accounts," "120-Addl. D.A. Deposits Suspense Accounts (Old)," and 121-Addl. D.A. Deposits Suspense Accounts (New)," below the major head 6685-Suspense Accounts and all the DDOs are to furnish the claims of old C.D.S., for payment of their respective PAO before 31.12.1995. Applicant preferred a representation which has not been responded to.

4. Learned counsel stated that respondents have not taken any steps in compliance of the order passed by the Government and rather meted out the allegation of theft against him that the Bills have been taken away by someone and in fact by the applicant himself and he returned the same only in December, 2000, when there was no provision for the payment of such amount. It is stated that the same cannot be attributed to him as it is obligatory on the part of the Government to comply with the Scheme and to reimburse the amount with due amount.

5. It is also stated that had there been an allegation of theft of the Bills, the applicant, who remain in service till 2000 should have been dealt accordingly in a disciplinary proceedings or before a competent court for these allegations. It is stated that the defence is to shirk their responsibility and is unjustified, the claim of the applicant is to be valid and in accordance with the rules and law, the same is to be allowed.

6. On the other hand, respondents in their reply have contended that the bills were sent to the concerned PAO for releasing the payment and were returned finally with the remark that the policy is under consideration to review with Government of India and pending decision the payment of the amount is not admissible. It is further stated that the claim of the applicant is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985.

7. It is further stated by the respondents that a sanction of the competent authority for the amount of Rs.742/- was issued to the DDE (North East), Yamuna Vihar, Delhi on 30.7.1996 and bills were sent to the concerned PAO, where it was found that the bills were taken away by some one. In fact the applicant had taken away the bills and kept them with him for the reasons best known to him. As applicant has annexed a copy of certain bills, this substantiate their contention. It is also stated that a stringent departmental action would have been taken for this act of grave mis-conduct but the applicant has retired, the same has not been taken and as the bills have been returned by the applicant only during December, 2000, there is no provision for payment of the said amount as per the Government of India's orders. It is stated that the applicant is responsible for non-payment of the said amount and OA is liable to be dismissed.

8. I have carefully considered the rival contentions of both the parties and perused the material on record. The defence put forth by the respondents to deny the claim of the applicant is

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vague, unfounded and is liable to be rejected at the outset. There is no evidence/proof shown by the respondents that the applicant had taken the bills himself and later on deposited the same. In so far as the bills annexed with the OA, this is an outcome of a representation made by the applicant and in pursuance thereof the respondents themselves given him a copy of the bills which he has annexed. Mere annexing bills in the OA would not indicate that the bills have been kept by the applicant and now produced for seeking benefit. If the respondents have a serious doubt on the applicant, action would have been taken in accordance with law in December, 2000, at that time the applicant was in service but having failed to take the same, now they cannot take the plea to deny a legal right of the applicant which has been accorded to him by virtue of the Scheme introduced by the Government by an order of 1995 the old Scheme was directed to be disposed of by the concerned authorities. There is nothing on record to indicate that in pursuance of this letter the respondents have worked out the dues of the applicant and paid him the reimbursement amount.

9. As regards the limitation, as the question relates to pay and allowances the same held to be a continuing cause of action by the Apex Court in M.R.Gupta Vs. Union of India & Others, 1995(5) SCC 628. In this view of the matter, no limitation is attracted and the present OA is not hit by Section 21 of the Administrative Tribunals Act, 1985.

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10. In my considered view, as a custodian of the official records and as a model employer and in a Welfare State, it is the duty of the Government to verify the bills and to grant the legitimate claim of the applicant in accordance with their own Scheme and as per law. Merely this Scheme has been revised and as per the Government orders, would not be sufficient to deny claim of the applicant which accrued to him by virtue of Scheme introduced in 1974 and continuing till 1995. The ~~claim~~^h of the applicant is not post 1995 and as such it is ~~an~~^h obligatory upon the respondents to act on the bills, being found now, in accordance with their own Scheme and disburse the entire due amount to the applicant.

11. In the result, the action of the respondents denying legitimate dues to the applicant who is a retiree, cannot be countenanced and is violative of Articles 14 and 16 of the Constitution of India and cannot be sustained.

12. In the result, the OA is allowed. Respondents are directed to pay all the outstanding dues in CDS Scheme to the applicant along with a simple interest at the rate of 10% per annum from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)
Member(J)

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