

Central Administrative Tribunal
Principal Bench

O.A. No. 383 of 1999

(5)

New Delhi, dated this the 17th August, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Padam Prakash,
S/o late Shri Jhandoo Lal,
C/o Shri Harbanslal,
Near Pawan Shuttering Store,
Jatal Road,
Panipat, Haryana. ... Applicant

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India through
the Lt. Governor, Raj Niwas,
Delhi.
2. Secretary (Revenue),
NCT, Delhi,
4, Under Hill Road,
Delhi. ... Respondents

(By Advocate: Shri A.K. Singh proxy
counsel for Shri Raj Singh)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns Respondents' order dated 16.4.91 (Annexure P-4) and seeks a direction to Respondents to regularise the period he was absent from duty, to release his salary from March, 1988 to 30.4.91, as also his Pension, Gratuity, Leave Encashment etc. along with interest @ 18% p.a. Alternatively he seeks a direction to pass orders in the Departmental Enquiry after giving him copy of the findings within 15 days.

2. We have heard applicant's counsel Mrs. Chhibber. We note that although the O.A. was filed on 16.2.99, and the case came up on 18.2.99 on which

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date notices were ordered to be issued to respondents to file reply, they have failed to do so, despite three dates having gone by since. Shri A.K. Singh proxy counsel for Shri Raj Singh appears for respondents and states that despite his best efforts, he has been unable to file reply owing to the fact that Respondents were not cooperating with him. He submitted that the Bench may pass such orders as are appropriate, on the basis of available materials on record. He also showed a copy of the Memo. dated 16.8.99 which is taken on record from the Respondents to their counsel Shhri Raj Singh seeking a further adjournment of about 20 days in the matter.

3. Mrs. Chhibber states that applicant has been under disciplinary proceedings vide chargesheet dated 16.4.91 served on him on 24.4.91 one day before he was to retire on superannuation on 30.4.91. She states that the D.E. has not been completed as yet, although the E.O. has meanwhile himself retired on superannuation during the pendency of the D.E.

4. A persual of the chargesheet (Annexure P-IV) shows that it is for alleged unauthorised absence from 2.3.88 to 28.10.90; and if the aforesaid contentions are correct, we must record our anguish at the inordinate delay on the part of respondents in failing to conclude this relatively simple matter despite the passage of namely 8 years. Our disapproval finds strength from the fact that the

Respondents' proxy counsel has himself complained about non-cooperation from his clients in regard even to filing of the reply to the O.A. (7)

5. Mrs. Chhibber has also stated that although applicant retired on superannuation on 30.4.91 Respondents have not even cared to pay him his provisional pension which they are mandatorily required to pay in accordance with Rule 9(4) read with Rule 69 CCS (Pension) Rules.

6. In this connection Mrs. Chhibber has invited our attention to the Hon'ble Supreme Court's judgment in State of Andhra Pradesh Vs. N. Radhakrishnan (1998) 4 SCC 154 in which it has been observed as follows:

....A balance has to be maintained between the purity of administration and the adverse effect which the prolonged proceedings have on an employee - unexplained delay in conclusion of the proceedings itself is an indication of prejudice caused to the employee."

Mrs. Chhibber has also relied upon Hon'ble Supreme Court's ruling in Dr. Uma Agarwal Vs. State of U.P. & Anr. JT 1999 92) SC 359 wherein adherence to the time schedule prescribed in the departmental rules for release of retiral benefits has been enjoined upon, and also on R.S. Dhull Vs. State of Haryana & Ors. 1993 (4) SCC 379 whereby interest @ 12% p.a. was awarded for delay in release of retiral benefits.

7. Having regard to the facts and 2

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circumstances noticed above, and in particular the Hon'ble Supreme Court's judgment in Radhakrishan's case (Supra), and furthermore respondents' failure even to file reply to the O.A. despite several opportunities, as also respondents' counsel's submission of non-cooperation on the part of his clients and his conceding that the Bench may pass appropriate orders on the basis of the materials on record, we dispose of this O.A. with a direction to Respondents to conclude the Disciplinary Proceedings against applicant, within three months from the date of receipt of a copy of this order, in which applicant should also fully cooperate. In case respondents fail to conclude the D.E. within the time allowed, despite full cooperation of applicant, the D.E. shall be deemed to stand concluded on that date, and such final pensionary benefits as are admissible to applicant in accordance with rules and instructions shall be paid to him within two months thereafter.

8. Meanwhile applicant's provisional pension should be released to him in accordance with rules and instructions, if not already released within one month from the date of receipt of a copy of this order. As regards the claim for interest, respondents will fix responsibility for the delay in releasing provisional pension, if not already released, and in the event applicant had submitted the required pension papers, complete in all respects, within time, respondents shall grant him interest @ 12% p.a. on the provisional pension from the date it became due till the date of payment.

9. The O.A. is disposed of accordingly.

No costs.

Kuldip Singh
(KULDIP SINGH)
Member (J)

S.R. Adige
(S.R. ADIGE)
Vice Chairman (A)

/GK/

⑧ Conceded vide Court's order dated 18/11/95
passed in M.A. 2062/95

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