

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1049/98

(8)

New Delhi this the 18th Day of November 1998.

Hon'ble Shri Justice K.M. Agarwal, Chairman
Hon'ble Mr. R.K. Ahooja, Member (A)

Shri D.V. Srivastava,
S/o Late Shri K.P. Srivastava,
R/o G-21 Navin Shahdara,
Delhi-110 032.

Applicant

(By Advocate: Shri M.L. Ohri)

-Versus-

Union of India, through

1. The Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. The Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi.
3. Director General of Income-Tax (Admn.),
7th Floor, Mayur Bhawan,
New Delhi-110 001.

Respondents

(By Advocate: Shri V.P. Uppal)

ORDER

The applicant while working as an Assistant Commissioner of Income Tax was chargesheeted under Rule 14 of the CCS (CCA), Rules 1965 on 14.1.1994. He retired from service in the normal course on 30.6.1995. The grievance of the applicant is that though the Inquiry report against him was submitted as far back as in October, 1995, the same was conveyed to him after a gap of two years on 29.9.1997 and the final orders exonerating him and dropping the proceedings were issued on 11.2.1998. As a result of this delay, the applicant did not receive his retiral benefits, even though

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numerous representations were made by the applicant. The applicant was also considered for promotion in the rank of Dy. Commissioner of Income Tax by the DPC held in 1994 but on account of the pending disciplinary proceedings against him, the recommendations of the DPC were kept in a sealed cover. The applicant has now come before the Tribunal with the prayer that the respondents be directed to open the sealed cover and promote him notionally, if found fit by the DPC from the date his junior was promoted, with all consequential benefits and further that the respondents be directed to pay him all the retiral benefits including Commutation of Pension, Gratuity and Leave Encashment with 18% from the date of his retirement to the date of his actual payment.

2. The respondents in reply have merely stated that after passing of the order of the disciplinary authority, vigilance clearance in the case of the applicant was being issued for payment of retiral benefits and for the purpose of opening of the sealed cover. In an additional affidavit filed on 2.11.1998, the respondents have further stated that a Cheque dated 22.7.1998 had been issued for payment of Leave Encashment amounting to Rs. 71,000/-, another Cheque dated 30.6.1998 had been issued for Commutation of Pension amounting to Rs. 92,258/- and a Cheque dated 6.3.1998 had been issued for payment of DCRG for the amount of Rs. 1,30,268/-.

3. We have heard the counsel. We find no reasonable explanation for the delay caused in finalization of the disciplinary proceedings and

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consequently withholding of the retiral benefits. The applicant has been exonerated and is, therefore, entitled to the payment of his retiral benefits with interest. The respondents are also required to open the sealed cover and if the DPC had recommended him, to promote him notionally with all consequential benefits.

4. The O.A. is, therefore, disposed of with the following directions:

1. The respondents will pay 12% interest on Leave Encashment and 18% interest on DCRG three months from the date of retirement of the applicant till the date of actual payment. No interest on Commutation of Pension will be due as the applicant has received full pension in the intervening period;
2. The respondents will arrange to open the sealed cover and if the applicant is recommended for promotion to issue order for promotion to the applicant notionally from the date of his junior was promoted with all consequential benefits including difference of salary and allowance;
3. In case the applicant is notionally promoted as per direction 2. above, his retiral benefits will be recalculated and the arrears arising thereof will be paid to him; and

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4. The above directions will be carried out and implemented within a period of two months from the date of receipt of a copy of this order

Jm

(K.M. Agarwal)
Chairman)

~~R.K. Ahuja~~
(R.K. Ahuja)
- Member (A)

Mittal