

Central Administrative Tribunal, Principal Bench

O.A. No. 1990 of 1998

New Delhi this the 10th day of November, 1999

Hon'ble Shri Kuldip Singh, Member (J)

Diwakar Sharma
R/o C-105 Surajmal Vihar,
I.P. Extension, Part-II,
Delhi-92.

..Applicant

By Advocate Dr. S.P. Sharma.

Versus

1. The Government of National Capital Territory
Directorate of Education, Establishment IV, Branch,
Old Secretariat, Delhi-54
(Through Chief Secretary)

2. Dy. Director of Education,
District North - East,
E Block, Yamuna Vihar,
Delhi.

3. The Principal,
G.B.H.S. Vidayala G.T. Road,
Shahadra, Delhi.

4. The Pay and Accounts Officer,
PAO-VIII, GTB Hospital,
Dilshad Garden
Delhi.

..Respondents

By Advocate Shri Raj Singh.

ORDER

In this OA the applicant has prayed for the following reliefs:-

(i) The respondent may kindly be directed to make the payments of retirement benefits to the applicant including his pension, gratuity, arrears of pay etc.

(ii) It is further directed that he may also be paid interest upon the amount due to the applicant as has not been paid within time.

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2. The facts in brief are that at the time of superannuation, the applicant was working as a Principal in the Government Highersecondary Boys School Vidayala, G.T. Road Shahdara, Delhi. Before that, he was working at Sarvodaya Bal Vidyamandir G.T. Road Shahadra. It appears that there was some dispute regarding taking over charge and handing over charge regarding furniture items etc.

(16)

3. The applicant further alleges that he had informed the authorities that since he was to retire from service on 30.6.97, someone may be detailed to take over charge of the property of the school. Shri S.S. Chauhan, who was working as Head Clerk had been delaying to take over the charge on some pretext or the other.

4. The applicant further alleges that before he could be relieved from service, he received a letter issued by the Joint Director (Education) stating therein that the retirement benefits be not released to the applicant as some disciplinary proceedings were to be taken against him and, therefore, he was placed under suspension on 29.6.97, i.e., one day before his retirement. As such, his retirement benefits had been stopped.

5. It is also stated that the suspension letter has not been issued by the competent authority so it is illegal and void ab initio and since there is a delay on the part of the respondents to release the retiral benefits, so the respondents be directed to release the same with interest.

6. Respondents contested the O.A.. It is stated that there is no delay on the part of the respondents. It is the applicant himself who had submitted the papers late and, therefore, provisional pension was fixed late as he had not submitted "No

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"Dues Certificate" to the head of the office at the earlier school and he joined the new school of his own without having any formal letter issued from the competent authority and the LPC was issued from his earlier school subject to the condition to submit the charge of the store and no dues certificate. (A)

7. It is also admitted that suspension order was issued on 29.6.97 and this was done due to some disciplinary proceedings contemplated at the Headquarter level. Since the enquiry is pending, no order could be issued for release of retiral benefits and states that the OA deserves dismissal and the same be dismissed.

8. I have heard the learned counsel for the parties and have perused the records.

9. Admittedly, a suspension letter was issued to the applicant on 29.6.97, may be one day before his retirement but the applicant had been placed under suspension. The said suspension order has not been revoked till date. The applicant is not aware of the stage of the proceedings at which the disciplinary proceedings are pending. Rather, the applicant has submitted that he is not aware, if any, enquiry is started or not.

10. It is quite disgraceful that an employee is placed under suspension one day before is retirement. Even the learned counsel for the respondents is not aware as to what stage the disciplinary proceedings, if any, are pending. However, the fact remains that the applicant was placed under suspension and the suspension order has not yet been revoked and the counsel for the respondents fairly conceded that a direction may be issued to the respondents to complete the departmental

proceedings within a reasonable time and he also agreed that once the applicant is cleared of the departmental enquiry, the entire dues shall be paid to him depending upon the result of the enquiry. To my view also it is well settled that since the departmental enquiry is pending, so the department is justified to withhold the retiral benefits. Moreover, as per law they had already fixed the provisional pension. The only thing which is coming in the way of release of final pension is the pending departmental enquiry. So at best this court can direct the respondents to complete the disciplinary proceedings within a reasonable time and then release the dues, if any, after the completion of the enquiry as per law.

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11. Accordingly, I direct the respondents to complete the enquiry proceedings within a reasonable period and in any case not later than 6 months from today. If, thereafter, any grievance survives, the applicant will be at liberty to approach this Tribunal again. No costs.


(Kuldip Singh)
Member (J)

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