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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 641/98

Decided on: 22.12.1998

Shri N.D. Asrani.....Applicant

(By Shri S.C. Saxena.....Advocate)

Versus

UOI & Ors.

.....Respondent(s)

(By Shri Madhav Panikar....Advocate)

CORAM:

THE HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN

THE HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not? 75

2. Whether to be circulated to the other Benches
of the Tribunal? no

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(K. MUTHUKUMAR)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 641 of 1998

New Delhi this the ^{22nd} day of December, 1998

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri N.D. Asrani
R/o 14/856, Lodhi Colony,
New Delhi.

..Applicant

By Advocate Shri S.C. Saxena.

Versus

1. Secretary,
Ministry of Urban Development,
Government of India,
Nirman Bhawan,
New Delhi.

2. Superintending Engineer,
C.P.W.D.,
Nirman Bhawan,
New Delhi.

3. Executive Engineer,
'T' Division, CPWD,
Kidwai Nagar (West),
New Delhi.

..Respondents

By Advocate Shri Madhav Panikkar.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The grievance of the applicant is that on the date of his retirement, namely, 31.7.1997, disciplinary proceedings were initiated against him by the respondents in the Memorandum dated 31.7.97 for certain lapses on his part in the execution of the contract for work of A/R & M/O 1089 quarters at Lodhi Colony for which he was charged by the aforesaid Memorandum of charges. As a result of this, the respondents have not settled his retirement dues. He, therefore, prays for final settlement of his pensionary dues.

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In regard to the amounts on account of Leave Encashment and Group Insurance, which have been paid to him, he also prays for payment of interest at the rate of 18%. The applicant further prays for a direction to the respondents to issue necessary instructions to decide his disciplinary case as expeditiously as possible.

2. The applicant alleges that respondents have wilfully retained the pensionary benefits. The Memorandum of charge was also issued just on the date of his retirement although he had replied to the show cause notice as early as in February, 1996 and the respondents have delayed action on his case and have subjected him to harassment. He has also taken the plea that the respondents have not given any notice before withholding his final retirement dues. He also alleges that full pensionary benefits were given in respect of another ex-Assistant Engineer one Shri K.K. Gupta who was also due for retirement on 1.1.1996 and was allowed to retire with full pensionary benefits.

3. The respondents in their counter-reply have submitted that after receipt of reply from the applicant to the show cause notice, detailed investigations were carried out and the decision to institute disciplinary action against different officers including the applicant was taken on 23.7.97. They have, therefore, denied any wilful delay on the part of the respondents to take action against him before his retirement. They have also submitted that the applicant had been paid his Leave Encashment and Group Insurance dues

by their order dated 30.3.98 and 6.4.98, Annexure R-2 and Annexure R-3 respectively.

4. They have also submitted that the provisional pension had also been sanctioned to the applicant. They have, however, stated that in terms of Rule 69(1)(c) of the CCS (Pension) Rules, 1972, the gratuity amount cannot be released till the departmental proceedings are concluded. As far as conclusion of departmental proceedings are concerned, the respondents aver that they have taken up the matter with the Chief Vigilance Commissioner and as soon as the Inquiry Officer is nominated by the Chief Vigilance Commissioner, action to conclude the same will be taken.

5. We have heard the learned counsel for the parties and have perused the record.

6. Learned counsel admitted to the applicant's having received the Leave Encashment dues, Group Insurance and provisional pension including the arrears thereon. He has, however, submitted that there was some delay in respect of such payments. As regards the withholding of the gratuity, we are of the view that the respondents have acted within the provisions of the rules and cannot be faulted on this ground. Taking into account the facts and circumstances of the case, we are of the view that there had been no wilful delay in the settlement of dues that are permissible under the relevant rules and, therefore, the prayer for payment of interest is rejected. Since the respondents have themselves admitted

that action has been initiated to nominate the Inquiry Officer for expeditious conclusion of the disciplinary proceedings, we do not think that any further direction is necessary in this behalf at this stage.

7. In the light of the foregoing, there is no merit in the application and it is accordingly dismissed. No order as to costs.

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(K.M. AGARWAL)
CHAIRMAN

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(K. MUTHUKUMAR)
MEMBER (A)

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