

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 2029/95

Date of decision

1-11-1995

Shri Madan Mohan

... Petitioner

Shri B.S. Charya

... Advocate for the Petitioner

versus

Secy. Deptt. of Health and
others.

... Respondent

Shri Vijay Mehta

... Advocate for the
Respondent

COURT

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not ? *Y/S*
2. Whether it needs to be circulated to other
Banches of the Tribunal ? *X*

Lakshmi S.
(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2029/1995

New Delhi, this 1st day of November, 1996

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

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Shri Madan Mohan
R-2/125, Raj Nagar
Ghaziabad-201002 .. Applicant

(By Shri B.S. Charya, Advocate)

versus

1. Secretary
Department of Health
Ministry of Health & FW, New Delhi
2. Director
Central Health Education Bureau
Kotla Road, New Delhi
3. Pay & Accounts Officer
DGHS, Nirman Bhavan
New Delhi .. Respondents

(By Shri Vijay Mehta, Advocate)

ORDER(oral)

Both the learned counsel for the parties have been heard and perused the relevant records.

2. The main grievance of the applicant in this application is that although he has retired from service on 31.1.95, the respondents have failed to release his retiral benefits, including gratuity, pension and leave salary. Therefore, he has filed this OA claiming 18% interest on the retirement benefits from the date when the amount was due till the date of actual payment.

3. One of the grounds taken by the respondents as to why there has been delay in releasing the retiral benefits to the applicant is that the applicant has not completed the required formalities as provided in the proforma to the pension rules. In particular, they have submitted that the applicant had enclosed two unattested separate photographs of himself and his wife, while

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under rules he was required to submit a joint photograph duly attested. Shri Charya, learned counsel submits that this reason has been given by the respondents only in the reply. He, however, submits that the applicant is unable to submit a joint photograph of his wife and self as the applicant's wife is unwell and the respondents should, therefore, accept the separate ones.

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4. Considering the facts of the case and rules it would be in the applicant's interest to complete the formalities prescribed in the Pension rules as early as possible. Accordingly, in the first instance the applicant shall submit a joint photograph of himself and his wife as early as possible, say within two weeks from the date of receipt of a copy of this order to the respondents so that the other necessary formalities can be completed expeditiously. In case he is unable to do so, he may submit a detail representation explaining the circumstances to Respondent 2 for his consideration. Respondents 2 may satisfy himself of the facts either after verification personally or through a duly authorised officer and may, if he is satisfied, permit the applicant to submit fresh photographs in terms of note 3 of Form 5, under Rule 59(1)(c) and 61(1) of the CCS(Pension) Rules. This shall be completed within one month from the date of representation made by the applicant.

5. After the applicant completes the necessary formalities regarding the pension Form as mentioned above, the respondents shall take necessary action to expeditiously release the payment, and in any case not beyond a period of two months thereafter.

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6. Shri Charya, learned counsel has submitted that the respondents may be directed to release the withheld amount of gratuity as it is not in accordance with Rule 72 of CCS(Pension) Rules, 1972. Shri Vijay Mehta, learned counsel has on the other hand submitted that the amount was withheld in accordance with the order of this Tribunal in OA 2320/91 dated 1.9.92 and the orders passed by the office of the Chief General Manager, ALTTC, Ghaziabad dated 6.2.90, which is a department of the Government of India (Annexures R-IV to R-IX). In the order dated 21.2.94 the ALTTC, Ghaziabad has written to Respondent 2 requesting them once again to recover an amount of Rs.61,573 from the applicant, which is in respect of rent, electricity and water charges of the quarter he had occupied at Ghaziabad, details of which are given therein(R-VII). Shri Charya, learned counsel submits that for the period the applicant was at Ghaziabad, the amount of licence fee had already been deducted from his salary. It is an admitted fact that after being relieved from ALTTC, Ghaziabad, the applicant continued to stay in the quarter ~~of~~ from 17.3.89 till he retired from service on superannuation on 31.1.95 and he actually vacated the quarter only in February, 1995 for which he is liable to pay licence fee, including penal rent, as per the rules.

7. Shri Charya, learned counsel also submitted that a case is pending in the Civil Court at Ghaziabad for calculation of the amount due from the applicant payable to the respondents.

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8. Having regard to the above facts and circumstances of the case and also the judgement of the Tribunal in OA 2320/91 dated 1.9.92 since the respondents have to make recoveries from the applicant for his stay in the ALTTC quarter at Ghaziabad, after he was repatriated to his parent department, it cannot be stated that they cannot withhold the outstanding government dues in accordance with the rules till final adjustment. However, the respondents are directed to determine the licence fee/damage rent and other dues in respect of this quarter for the period from 1989 till he vacated it in accordance with the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

9. OA disposed of as above. In the circumstances of the case, the claim for interest is rejected. No order as to costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member(J)
1.11.1996

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/gtv/