

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

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OA NO.1129/1997

NEW DELHI, THIS 14th DAY OF OCTOBER, 1997.

SHRI ROSHAN LAL
V-623/2 Arvind Ngar
Gonda West, Shahdara
Delhi-110 053.

...APPLICANT

(By Advocate - Shri K.N. Bahuguna)

VERSUS

1. GOVT. OF NCT DELHI
Delhi, through its Chief Secretary
Shamnath Marg
Delhi.
2. COMMISSIONER OF POLICE, DELHI
PHQ Headquarters
Indraprastha Estate
New Delhi
3. DEPUTY COMMISSIONER OF POLICE
(Crime and Railways)
Police Headquarters
MSO Building, IP Estate
NEW DELHI.

..RESPONDENTS

(By Advocate - Shri Rajinder Pandita)

ORDER

The applicant superannuated from Delhi Police as a Sub-Inspector w.e.f. 31.1.1995. Pension Payment Order was thereafter issued allowing him a pension of Rs.1072/- per month plus DA etc. It was also mentioned that the commutation value of pension has been paid to the applicant, but the same was not actually paid to him. However, a deduction of Rs.357/- per month is alleged to have been made from the pension on account of commutation. Vide A-2, the applicant was also informed that authorisation for DCRG and commutation value of

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pension have been issued and he should contact the DCP (Crime), respondent No.3, for payment. The applicant's grievance is that despite this, the gratuity and commutation value of pension and other retirement dues have been withheld till date. He now seeks a direction for release and payment of these dues along with interest at the rate of 18%.

2. The respondents in reply state that the applicant was due for superannuation w.e.f. 31.1.1995. As per rules, his case for pension and other retiral benefits was started from 23.4.1993 and sent to the concerned Pay and Accounts Office on 9.1.1995. However, in the mean time, a departmental enquiry (DE for short) was ordered against him vide office order dated 16.1.95. He was summoned on 24.1.95 to join the DE but he failed to do so. The summary of allegations could also not be served upon him till 30.1.1995. Since the applicant deliberately avoided service, ultimately on 30.1.95 the documents were pasted at the main gate of his house. After his retirement, the applicant submitted his representation against the departmental proceedings. The Legal Advisor to the Commissioner of Police advised that the pasting of documents could not be accepted as sufficient service and therefore it was necessary to obtain the sanction of the President to deal with the retired official. This led to further delay. The applicant also filed an OA No.1781/1995 before the Tribunal against the order of DE, which was dismissed by the Tribunal with a direction that the respondents will dispose of the DE within four months. It is submitted that the enquiry has been completed and the applicant has been exonerated. The respondents further state that in view of the initiation and pendency of the DE, the

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PAO was requested to grant to the applicant provisional pension w.e.f. 1.2.1995. The pension case was ultimately sanctioned by PAO vide letter dated 15.9.95. Since the DE by that time was revived, the PAO was again requested to grant provisional pension. The respondents have thus sought to explain the delay in the release of DCRG and commutation value of pension. However, on 9.7.97, orders have been issued for release of the amount of gratuity and commutation.

3. A rejoinder has also been filed by the applicant saying that after 31.8.95, he has been drawing full pension. However, even though the commuted value of pension was not paid to him, the amount of Rs.357 being 1/3rd of pension was regularly deducted.

4. I have heard the ld. counsel on both sides. Since it is an admitted position that the DE against the applicant has resulted in his exoneration ^{from} of the charges, he is entitled to release of his retiral benefits from the dates they were due. The ld. counsel for respondents however argues that the applicant has no right to the claim of interest because when he filed the earlier O.A. No.1781/95, he sought the specific directions from the court by way of interlocutory orders that DE proceedings be stayed. In view of the interim directions given at the instance of the applicant, the DE proceedings could not be completed. Hence the delay was entirely on account of the applicant himself.

5. I have seen the order sheets of O.A. No.1781/95. Interim order was issued on 12.10.1995 in the following terms:-

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"There is a prayer for interim direction to stay the departmental proceedings. We are of the view that there is no need to issue such direction. However, we restrain the respondents from passing any final order before the next date of hearing."

6. It is clear from the above that the respondents were only restrained from ~~only~~ passing the final order and not from going ahead with the DE. I do not find merit in the argument that if the respondents had been allowed to pass the final order, then the exoneration of the applicant would have taken place all that much earlier. The essential point is that the applicant was found to be without blame and in that light he cannot be allowed to suffer on account of any delays which occurred due to the initiation of DE against him.

7. In view of the above position, I dispose of this OA with the directions that the respondents will pay 18% interest to the applicant on all the delayed payments except in the case of commutation of pension. Interest will be paid from the date from which the payments were originally due till the date of actual payment. In respect of commutation value of pension, the respondents will reimburse to the applicant all deductions made till the date of payment of the commutation of pension, also along with 18% interest thereon. This will be done within 3 months of the receipt of a copy of this order.

8. The O.A. is disposed of accordingly. No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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