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Central Administrative Tribunal
Principal Bench

O.A.No.1693/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 11th day of March, 1998

Shri B.S.Saxena
Pharmacist
Lok Nayak Jai Prakash
Narain Hospital
c/o Y.K.Kapur
Advocate
11/43-B, Tilak Nagar
New Delhi - 110 018.

... Applicant

(None for the applicant)

Vs.

1. National Capital Territory of Delhi
through Chief Secretary
Old Secretariat
Delhi.
2. Medical Superintendent
Lok Nayak Jai Prakash Narayan Hospital
New Delhi.
3. Joint Secretary (Phc)
(M-II)
I.J.L.Nehru Marg
New Delhi - 110 002.

... Respondents

(By Shri Raj Singh, Advocate)

O R D E R (Oral)

The case has been listed for today for Possible Final Hearing. However, the counsel for the applicant has not present. None was also present, on behalf of the applicant, on the last occasion. I have therefore heard the learned counsel for the respondents and I have gone through the records.

2. The applicant's grievance is that though he retired from service of the respondents as a Pharmacist on 31.1.1997, his retiral benefits have not been finalised. These include leave encashment, GPF, pension, etc. The applicant also says that his pay has

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to be refixed consequent upon the appointment in the selection grade. Orders for which had been issued way back on 14.7.1983 as per Annexure-A1.

3. The respondents in reply have stated that applicant was paid his CGEIS dues on 27.1.1997 and GPF final payment on 23.6.1997. His leave encashment has also been paid on 17.9.1997. However, his pension could not be finalised as he has not submitted the requisite documents, i.e., No Dues Certificate from the Estate Office, as the applicant is still in occupation of the Government Accommodation and also non-completion of pension papers including birth certificate of his children. These documents were requested from him vide letter issued on 28.8.1997.

4. The applicant in rejoinder has admitted the receipt of GPF, Leave Encashment and CGEIS dues. He however is not satisfied with his leave account wherein he claims that 19 days medical leave had been deducted from his Earned Leave account.

5. On perusal of the record, I find that the respondents have admitted that the Pension case of the applicant has not yet been finalised. The learned counsel for the respondents submits that the pay of the applicant could not be refixed in selection grade as the matter is pending with the higher authorities. He also submits that the pension on the existing rates could not be allowed as the applicant failed to submit the birth certificate of his children.

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6. Having considered the matter carefully, I find that the applicant has a good case. There is no provision in the rules that payment of the pension is subject to the production of No Dues Certificate on account of non-vacation of Government accommodation. If any dues are to be paid by the applicant the same can be adjusted and recovered from the Gratuity of the applicant. The explanation given by the respondents that the case for selection grade is pending with higher authorities is also not satisfactory. The applicant cannot be held responsible if the matter keeps pending with the higher authorities and no decision is taken thereon.

7. In view of the above position, I dispose of this OA with the following directions:

1) The respondents will finalise the refixation of his pay on the basis of selection grade within a period of one month from the date of receipt of a copy of this order.

2) The pension will be fixed within a period of one month thereafter.

3) The arrears of the pension will be paid to the applicant along with 18% interest within a period of three months from the date of receipt of a copy of this order.

4) The applicant will submit the requisite birth certificate, if not already furnished, within 15 days from the date of receipt of a copy of this order.

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5) Interest at the normal rate will be worked out for the delayed payment of GPF and also paid to the applicant within a period of one month from the date of receipt of a copy of this order.

The OA is disposed of as above. No costs.

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

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