

(96)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 2551/97

199

T.A.No.

DATE OF DECISION 19-5-2000

Laxmi Chander Sharma

....Petitioner

**Sh.G.D.Gupta, learned counsel....Advocate for the
through proxy counsel Sh. Petitioner(s)
S.D.Raturi**

VERSUS

UOI & Ors

....Respondent

**Ms.Sumedha Sharma for
R+1-4.**

**....Advocate for the
Respondents.**


Sh.R.S.Mahla for R-5

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

The Hon'ble

- 1. To be referred to the Reporter or not Yes**
- 2. Whether it needs to be circulated to other
Benches of the Tribunal? No.**


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

(2)

Central Administrative Tribunal
Principal Bench

O.A. 2551/97

New Delhi this the 19th day of May, 2000

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

Shri Laxmi Chander Sharma,
S/o late Shri Dale Ram Sharma,
R/o 1/5528, Gali No. 16,
Balbir Nagar Extension, Shahadra,
Delhi-110032. Applicant.

By Advocate Shri S.D. Ratori proxy for Shri G.D. Gupta.

Versus

1. Lt. Governor,
Government of National Capital
Territory of Delhi, Raj Niwas,
Delhi.
2. Government of National Capital
Territory of Delhi through its
Chief Secretary,
5, Sham Nath Marg,
Delhi-110054.
3. Director of Education,
Directorate of Education,
Old Secretariat,
Delhi.
4. Deputy Director of Education,
District North East, B-Block,
Yamuna Vihar,
Delhi-110053.
5. Shri Ram Phal Singh, then Principal
Government Boys Senior Secondary
School, Babarpur, Shahdara,
Delhi-110032. Respondents.

By Advocate Ms. Sumedha Sharma - for Respondents 1-4.

By Advocate Shri R.S. Mahla - for Respondent 5.

O R D E R

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

The applicant, who has retired from service with the respondents as Physical Education Teacher (PET) w.e.f. 31.7.1995 has filed this O.A. seeking the following reliefs:

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- "(a) to allow the application with costs;
 - (b) to issue appropriate orders/directions:

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(i) directing the respondents to pay interest @ 18% per annum from 31.7.1995 till the date of payment of the applicant's pension, commutation of pension and LIC benefits;

(ii) further directing the respondents to pay exemplary costs of Rs.10,000/- for the harassment and injustice done to him;

(c) to pass such further orders as deemed fit and proper in the circumstances of the case to meet the ends of justice".

2. According to the applicant, after his retirement on 31.7.1995 he had made several representations to the authorities to release his retiral benefits (Annexures A-58 to A-67). He has submitted that on 16.3.1996 he was informed that a cheque for Rs.61,952/- towards his gratuity was prepared and the respondents had with-held a sum of Rs.20,000/- which he has submitted is illegal. In para 16 of the written submissions given by Shri G.D. Gupta, learned counsel for the applicant, it is stated that he has received his pensionary benefits on various dates mentioned therein. He has also submitted that from the Inquiry Report (copy placed at Annexure W-I), it can be seen that he has been exonerated of all the charges. In the circumstances, the applicant has stated that the letter issued by the Govt. Boys Senior Secondary School, Babarpur, Delhi dated 24.2.2000, which has been taken on record by order dated 22.3.2000, is nothing but a malicious attempt on the part of Respondent 5, that is the Principal of the School, to deprive him of his rightful claims for the pensionary benefits and interest for delayed payments along with exemplary costs. The applicant has also relied on the judgement of the Tribunal in Dr. K.S. Bhandari Vs. Administrator, UT of Delhi & Ors. (OA 2916/97), decided on 16.2.2000 (Annexure W-2).

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3. Respondents 1-4 in their reply have submitted that the applicant had been requested by the then Principal Shri R.P. Singh vide his letter dated 31.10.1992 to hand over the charge of games to Shri Balbir Singh, Sr. PET of the school, but this was not done by him. He was also reminded on 11.3.1993 to hand over the charge as there were certain objections against him in the audit report. Ms. Sumedha Sharma, learned counsel has submitted that it was necessary for the applicant to remove the audit objections. According to the respondents, the applicant was asked on 3.6.1996, 17.6.1996 and 4.7.1996 to collect the cheque for Rs.2,95,987/- dated 3.6.1996 with regard to his DCRG payment but he refused to collect the same. They have stated that the delay in making payments to the applicant was because of certain technical short-comings which were outstanding against him. They have further stated that the sports articles were also objected to in the audit report of the school for 1978-80 upto 1993-94. Hence, they had with-held an amount of Rs.20,000/- out of the gratuity amount due to him. Learned counsel has submitted that in the above circumstances, the pensionary benefits were with-held as the applicant's conduct amounted to 'misconduct' as he was responsible for not handing over the items of sports goods which were part of Government property, till which time he could not have obtained the 'No Due Certificate'. In the written submissions made on behalf of the respondents, they have also stated that until he hands over the full charge of the sports items, and obtains a 'No Due Certificate' which he has not obtained till today, he is not entitled to any interest on the pensionary amounts because the delay has been caused by the applicant himself. The respondents have also submitted the relevant official records dealing with the applicant's case for retiral benefits. Respondent 5

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in the written submissions, placed on record has also referred to the audit objection against the applicant which he was called upon to remove which, according to him, has not been done by the applicant.

4. I have carefully considered the pleadings and submissions made by the learned counsel for the parties, including the written submissions of the parties.

5. In the written submissions made by the applicant, he has submitted that he has received pensionary benefits on various dates as given below:

<u>S.No.</u>	<u>Particulars</u>	<u>Amount</u>	<u>Date of Payment</u>
1.	GPF	Rs. 24,941.00	20.9.1995
2.	UTGIS	Rs. 4,654.00	01.12.1995
3.	Commutation	Rs. 49,443.00	29.11.1995
4.	Pension	Rs. 2,733.00	31.01.1996
5.	Encashment of Leave	Rs. 14,931.00	13.03.1996
6.	Gratuity	Rs. 81,952.00	19.11.1996

He has also submitted that he has been able to lay his hands on the copy of the report of the Inquiry Panel in which it has been stated that he has been exonerated of all the charges levelled against him. Although in the copy of the report annexed by the applicant no date has been given, I find from the records submitted by the respondents that the Inquiry Report is dated 23.5.1996 duly signed by five officers, including the Education Officer (Z-IV). In the last paragraph of this report it is stated that 'the Inquiry panel is of the opinion that there exists nothing outstanding against Shri L.C. Sharma'. In the report they have considered the audit objections against the applicant which have also been repeatedly referred to by the respondents in their replies. From the submissions made by the applicant himself, it is seen

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that even prior to the submission of the Inquiry Panel's Report dated 23.5.1996, he has been paid most of the amounts due to him on retirement as mentioned at Serial Nos.1-5 above. In other words, the only amount is of gratuity amounting to Rs.81,952/- which has been paid on 19.11.1996, that is about six months after the Inquiry Report. In the light of the findings of the Inquiry Panel's Report, the contention of the applicant that the letter from the Govt. Boys Senior Secondary School (GBSSS), Babarpur, dated 24.2.2000 that he has still not handed over the complete charge of the games and the sports items appears to be contradictory and motivated. This argument was also advanced by Ms. Sumedha Sharma, learned counsel, during the hearing and as it is not supported by their own records, it is rejected.

6. From the averments made by the applicant himself, it is noticed that on 16.3.1996 he was informed that a cheque for Rs.61,952/- towards his gratuity was ready, but according to him as the respondents had illegally withheld a sum of Rs.20,000/- it appears he did not collect it. Later, it is noticed that on 19.11.1996, according to his own statement given in Para 16 of the written submissions these amounts (i.e. Rs.61,952 + Rs.20,000 = Rs.81,952) have been paid to the applicant. From the relevant file (DDE/NE/ZX/96, Zone-V, Distt. North-East) submitted by Respondents 1-4, it is seen that the DEO in his Note dated 16.1.1998 which has been approved by DEE/NE dated 19.1.1998 has made the following remarks:

"Inquiry Committee had found responsible for withholding Rs.20,000/- to then Principal GBSSS Babarpur because Shri L.C. Sharma was not found responsible for the loss of Govt. property. The

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Committee did not find anything due against Sh. L.C. Sharma.

At every time Sh. L.C. Sharma has been found 'without any outstanding'. Therefore, it is submitted to worthy DDE for further necessary action please".

It is also seen from the facts mentioned in the relevant Departmental file that an inquiry was held against the applicant for shortage of sports goods, but the Inquiry Panel of five officers had come to the conclusion that he was not responsible. A further recommendation had also been made in the circumstances of the case to fix the responsibility for delayed payment of the amounts due to the applicant. As mentioned above, the applicant himself has submitted that on 16.3.1996 he was informed that a cheque for Rs.61,952/- towards his gratuity was prepared which he could have collected leaving open the recovery of the withheld amount of Rs.20,000/- at that time which, however, he did not do. As an inquiry was pending against the applicant during the relevant period, the withholding of Rs.20,000/- from gratuity by the respondents was initially justified but because of his exoneration and the delay in refunding this amount to him, simple interest shall be payable to him as mentioned in Para 8 below on this amount also.

7. In the light of what has been stated above as seen from the official file, it is relevant to note that in the counter reply filed on behalf of Respondents 1-4 on 2.12.1998, they have submitted that the applicant had not handed over the charge of the sports items for which he was reminded and reference to the objections in the audit report have also been mentioned for which they had decided to withheld an amount of Rs.20,000/- out of the gratuity amount. The applicant himself has stated that even prior to the date of filing this reply,

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he has already received most of the retiral benefits, as set out in Paragraph 16 of the written submissions in 1995-1996. Further, Respondents 1-4 have in most of the paragraphs of their reply stated that "it is a matter of record". In the facts of the case, the contention of the applicant that the letter dated 24.2.2000 issued by Respondent 5, again referring to the audit objections and that the applicant has not taken any steps to settle the same shows that the respondents themselves have taken contradictory stands which has adversely affected the applicant.

8. In the result, taking into account the facts and circumstances of the case, the O.A. succeeds and is allowed as follows:

- (i) The applicant shall be entitled to be paid simple interest @ 12% per annum on all his retiral benefits from the date of his retirement i.e. 31.7.1995 till the date of actual payment of the amounts, excepting on the gratuity amount of Rs.61,952/- (Rupees sixty one thousand nine hundred and fifty two) on which he shall be entitled to the interest only upto 16.3.1996;
- (ii) Necessary action as above shall be taken by the respondents within two months from the date of receipt of a copy of this order;
- (iii) It is for Respondents 1-4 to take further action regarding fixing responsibility for the delayed payments of the retiral benefits to the applicant;
- (iv) In the facts and circumstances of the case, cost of Rs.3000/- (Rupees three thousand) is given in favour of the applicant and against the respondents.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'