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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.2101/89

Date of decision:8.7.1992.

Sh.S.D.Sharma

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Applicant

versus

Delhi Admn.& anr.

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Respondents

CORAM: THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.I.K.RASGOTRA, MEMBER(A)

For the Applicant ...

Sh.S.K.Shukla,
Counsel.

For the Respondents ...

Ms.Mukta Gupta,
proxy counsel
for Mrs.Avnish
Ahlawat, Counsel.

1. Whether local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT(ORAL)

(Delivered by Hon'ble Sh.I.K.Rasgotra, Member)

Heard the learned counsel of both parties.

2. The principal issue involved in this case is that the applicant's retirement benefits have not been paid to him although he retired on 30.4.1987 as Principal of one of the schools of Delhi Administration on attaining the age of 60 years. The main ground for withholding his final settlements is that there was a case of defalcation of the school funds amounting to Rs.62,925.25 for which the applicant, who was posted in the said school during the period 23.10.79 to 12.9.83, was chargesheeted along with three others for negligence which had resulted in non-maintenance of account books and mis-appropriation of the said funds. According to the respondents, out of the said amount, the applicant was held responsible

(8)

for a sum of Rs.4530.15 which was shown as remitted to the bank in the cash book on 12.9.1983 but without any supporting challan. The applicant has been paid provisional pension reckoning his pay at Rs.1300, which according to his averment, he was drawing from 1.5.1977. The respondents have not fixed his pay in the revised scale of pay with effect from 1.1.1986 and consequently his pension has been fixed at a much lower stage than his entitlement. He has also not been paid the amount due to him under the Central Government Employees Group Insurance Scheme; nor has he been allowed leave encashment. The amount of General Provident Fund has also not been paid to him fully. He is also aggrieved by the fact that his pay was not progressed in the pay scales by granting him annual increments from 1.5.1977 onwards till he retired on 30.4.1987.

3. We were also shown a copy of the letter addressed by the Presenting Officer to the Commissioner of Departmental Inquiries, Central Vigilance Commission, wherein the Presenting Officer had stated that he is unable to show the listed documents for inspection to the Charged Officer as none of these documents has been made available to him.

4. We have considered the matter carefully and perused the material on record. The applicant was charge-sheeted on 9.9.1987 after he had retired

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(9)

from service on 30.4.1987. Since then almost 5 years have elapsed but the inquiry proceedings in pursuance of the Memorandum of charges served on the applicant are still to be started. Even the documents listed in support of the charges framed against him are not yet available. There has been, therefore, inordinate delay in completing the inquiry proceedings against the applicant causing him undue and unjustified hardship. He cannot be kept under a cloud and denied the retirement benefits for an indefinite period of time. Having regard to the facts and circumstances of the case we order and direct that the respondents shall:-

- (i) fix the pay of the applicant after progressing the same in the scale of pay in which he was drawing Rs.1300/- and as on 1.1.1986, when the recommendations of the Fourth Pay Commission were implemented and revise his provisional pension in accordance with the pay which he would have drawn had he been so fixed. He shall also be entitled to payment of arrears on account of the revised pension from 1.5.1987.
- (ii) the amount of leave encashment due to him and the balance of GPF amount which has not been paid to him shall also be payable to him.
- (iii) the payment of the above dues shall be made to the applicant as early as possible but not later than 6 weeks from the date

(10)

of communication of this order.

5. We, however, at this stage would not like to pass any order in regard to allowing commutation of pension and release of Death-Cum-Retirement-Gratuity but would direct the respondents to complete the inquiry proceedings and take a final decision in the matter with utmost expedition but not later than 6 months from the date of communication of this order. The OA is disposed of on the above lines. However, if the applicant is still aggrieved he will be at liberty to approach the Tribunal, if so advised.

There will be no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

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