

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 364/88

Date of decision: 13.04.1992.

Mrs. R.K. Jain

...Applicant

Vs.

Delhi Administration

...Respondents

For the Applicant

...Shri B.B. Srivastava,
Counsel

For the Respondents

...None

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who retired from the post of Deputy Nursing Superintendent, G.B. Pant Hospital, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) To direct the respondents to award interest on GPF subscriptions for the months her pay and leave salary had become due.
- (ii) To direct the respondents to provide to her a Due and Drawn statement regarding the GPF amount and

7

Income-tax deductions.

(iii) Interest at Bank rates for delayed payment.

2. We have heard the learned counsel for the applicant and have perused the records of the case carefully. The application was admitted on 11.4.1988 and the pleadings in the case were complete. The applicant moved MP 2350/88 for early hearing of the case which was allowed by the Hon'ble Chairman on 7.12.1988. The case had remained on the daily board from 12.7.1989. When the case was taken up on 22.1.1992 and 24.1.1992, the learned counsel for the applicant appeared but none appeared for the respondents.

3. The applicant had filed a writ petition in the Delhi High Court which stood transferred to this Tribunal as TA 917/85. The Tribunal disposed of the petition by its judgment dated 14.11.1986 wherein the following directions were given:-

" It is further directed that the petitioner shall be paid full pay and allowances for the period of suspension including the period from 23rd April, 1976 to 20th August, 1976, which was treated as wilful absence from duty. It is further directed that the petitioner shall be entitled to fixation of her pay and grant of increments retrospectively from the date of her promotion as Deputy Nursing Superintendent viz., 11.3.76 and she shall be paid arrears of pay and allowances from the said date as a result of such fixation."

4. On receipt of a copy of the judgment on 14.11.1986, the applicant applied to the Chief Secretary, Delhi Administration on 26.11.1986 for payment of arrears of pay and allowances. This was followed by 5 reminders and thereafter a personal meeting with the Chief Secretary, Delhi Administration on 17.9.1987. On 29.10.1987, a cheque



for Rs.38,261/- on account of part payment of arrears of pay and allowances was handed over to her but she was not given a Due and Drawn statement or any details regarding the break-up of the said amount.

5. The respondents have stated in their counter-affidavit that the sum of Rs.38,621/- was towards her pay and allowances for the period from 23.4.1976 to 12.11.84 except for the period from December, 1983 to March, 1984. The applicant stood retired (voluntarily) with effect from 13.11.1984. As she had so retired, no deduction towards GPF subscription was made from the arrears paid to her on 29.10.1987.

6. Another grievance of the applicant was that a lump-sum deduction of Rs.8611/- had been made from her dues on account of income-tax which was in disregard of the established practice of informing the concerned officer about income-tax recoveries. Had the applicant been informed to that effect in advance, she would have sought relief under Section 89 of the Income Tax Act, 1961. The version of the respondents is that the husband of the applicant was in constant touch with the Account Branch at the time of preparation of ^{the} arrears bill. He never sought relief under Section 89(1) of the Income Tax Act, 1961, and as such a sum of Rs.8611/- on account of Income-tax was deducted from the arrears.

~

7. The respondents have stated that a cheque for Rs.8,936/- towards the arrears of pay and allowances for the period from 1.12.1983 to 31.3.1984 was offered to the husband of the applicant who refused to accept the same. The judgment of the Tribunal is dated 14.11.1986. A portion of the arrears of pay and allowances to be released to her pursuant to the judgment of the Tribunal was released only on 29th October, 1987, which was about one year after the judgment was delivered by the Tribunal in her case.

8. The learned counsel for the applicant also submitted during the hearing that the applicant was on leave on medical certificate from 29.6.83 to 14.9.83, being under orders of transfer from I&JPN Hospital to the Mental Diseases Hospital, Shahdara. There was a tussle between the two hospitals as to the proper leave sanctioning authority. In view of this, her leave salary was not paid during the said period. No relief in this regard has, however, been sought in the application filed by the applicant.

9. After considering the matter carefully, we feel that the applicant is entitled to interest for the delayed payment of her arrears of pay and allowances for the period from 23.4.76 to 12.11.84 except for the period from December, 1983 to March, 1984. We do not consider it appropriate to direct the respondents to make deductions

towards GPF and pay interest to her on that basis at this stage. In case the husband of the applicant had refused to receive the sum of Rs.8,936/- towards arrears of her pay and allowances for the period from 1.12.1983 to 31.3.84, nothing prevented the respondents from sending the cheque at the address of the applicant by post. There is no indication that this was done.

10. Keeping the above aspects in view, the application is disposed of with the following orders and directions:-

- (i) The respondents are directed to pay interest at the rate of 12% per annum on the sum of Rs.38,261/- from 1.3.1987 to 29.10.1987.
 - (ii) The respondents shall pay to the applicant a sum of Rs.8,936/- towards the arrears of pay and allowances for the period from 1.12.1983 to 31.3.1984 together with interest at the rate of 12% per annum from 1.3.87 to 29.10.87.
 - (iii) In case the respondents have paid to the applicant the leave salary for the period from 29.6.83 to 14.9.83, the documentary evidence in proof of such payment should be given to the applicant. In case the same has not been paid to her so far, the respondents shall release the same to her.
 - (iv) The respondents shall comply with the above
- a

11

- 6 -

directions as expeditiously as possible and preferably within a period of 4 months from the date of receipt of this order.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 13417
MEMBER (A)

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J)

RKS
130492