



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 3966/2016
M.A. No.1600/2020

Through video conferencing

Tuesday, this the 22nd day of September, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Shri Hari Ram Saini
s/o Hoti Lal Saini, age 64 years
H.No.47-H, Block R
Dilshad Garden, Delhi – 110 095

... Applicants
(through Mr. G.L. Verma, Advocate)

Versus

1. Vice Chairman
Delhi Development Authority
Vikas Sadan (B Block)
INA, New Delhi – 110 023
2. Commissioner (Personnel)
Delhi Development Authority
Vikas Sadan, B Block
New Delhi – 110 023

..Respondents

(through Ms. Sriparna Chatterjee, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Junior Engineer in the respondent-organization, i.e., Delhi Development Authority (DDA). Disciplinary proceedings were initiated against him by issuing a charge memo on 06.11.1985. On



the basis of the report submitted by the inquiry officer on 11.04.1990, the applicant was imposed the punishment of 'removal from service' on 31.03.1994. The applicant filed Writ Petition before the Hon'ble High Court of Delhi challenging the order of punishment. That was transferred to this Tribunal and registered as T.A. No. 48/2008. Through an order dated 20.01.2010, this Tribunal had set aside the order of removal from service and directed that the report of the CVC shall be furnished to the applicant. It was also directed that the punishment, if at all imposed, shall not be higher than the one of compulsory retirement. Further steps were taken in compliance of the order and through an order dated 10.03.2011, he was imposed a punishment of 'compulsory retirement' w.e.f. 31.03.1994. In an appeal preferred by the applicant, the Lieutenant Governor of Delhi directed that the order of compulsory retirement shall be prospective in effect. Thereafter, the applicant approached this Tribunal by filing O.A. No.1683/2013 as regards the manner in which the period of suspension between 31.03.1994 and 10.03.2011 was to be treated as subsistence allowance.

This O.A. is filed complaining that the respondents did not sanction the pension or have withheld several



amounts, payable to him. He has also prayed for full salary from the date of reinstatement on 12.02.2010 to 10.03.2011.

2. The respondents filed a detailed counter affidavit reiterating the relevant facts. It is stated that the applicant was paid substantial amounts consequent upon the compulsory retirement and the period of suspension to the extent of leaves available to the credit of the applicant, was also regularized. According to them, the service record of the applicant was not available and several amounts were recoverable from him.

3. We heard Mr. G. L. Verma, learned counsel for applicant and Ms. Sriparna Chatterjee, learned counsel for respondents, at length, through video conferencing.

4. The punishment of removal from service was imposed upon the applicant way back in the year 1994. The challenge was made by the applicant to the said order. It was set aside and matter was remanded for further steps from the stage of furnishing the advice of CVC. Thereafter, the order of compulsory retirement was passed in the year 2011. Now, it was directed to be with effect from 31.03.1994. The Lieutenant Governor of Delhi modified it to be the one with prospective effect. Whatever be the modification of dates or order of



punishment, once the applicant was retired on compulsory basis, he is entitled to be sanctioned the pension.

5. One has to have the length of service in his credit. The applicant as well as the respondents are silent about this. The respondents need to examine as to whether the applicant has, to his credit, the pensionable service. If he fell short of that, how much part of the service during which he was under suspension, can be counted as per the relevant Fundamental Rules, need to be worked out. The mere fact that the service records of the applicant are not available, cannot relieve the respondents from that obligation to do the necessary exercise.

6. We, therefore, dispose of the O.A. directing the respondents to examine the entitlement of the applicant to be sanctioned the pension in accordance with the relevant rules, within a period of three months from the date of receipt of a copy of this order. We make it clear that if the pension and other amounts become payable, it shall be open to the respondents to effect necessary deductions, duly intimating the applicant about it.

7. Pending M.A., if any, shall stand disposed of.

There shall be no order as to costs.



(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 22, 2020
/sunil/rk/ns/