

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI**

O.A.No.100/0861/2020
(Diary No.2269/2020)

New Delhi this the 06th day of July 2020

THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR.MOHD. JAMSHED, MEMBER (ADMN.)

Between:

Ms.Sushama Solomon, Retired Nursing Officer,
(Group-C) GNCT, Delhi, Age 60 yrs, D/o Sh.S.C.Singh,
r/o 2083/11/, Turkman Gate, New Delhi-110 001.

...Applicant

(By Advocate:Mr.S.Padma Kumar, Counsel for the Applicant)

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1. Govt. of National Capital Territory,
Through Chief Secretary, Delhi Secretariat,
New Delhi-110 002.

2. Principal Secretary, Health & Family Welfare
Department, 9th Level, A Wing, IP Estate,
Delhi Secretariat, Delhi.

3. The Medical Director, Govind Ballabh Pant
Institute of Post Graduate Medical Education &
Research (GIPMER), GNCT of Delhi,
1-J, L.N.N. Marg, New Delhi.

...Respondents

(By Advocate: Ms.Esha Mazumdar, Counsel for the Respondents)

: ORDER (ORAL):
(By Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

The applicant joined service as Staff Nurse in the Health and Family Welfare Department of NCT, Delhi, in the year 1985. From 1988, she worked in the Govind Ballabh Pant Institute of Post Graduate Medical Education & Research (GIPMER), the 3rd respondent herein, and retired from service on 31.10.2019. It appears that disciplinary proceedings were initiated against her in the year 2009, which culminated in imposition of penalty reduction of pay scale by two stages for a period of two years with cumulative effect. She filed OA No.348/2010 before this Tribunal challenging the order of punishment. The OA was allowed on 14.09.2010. The respondents filed Writ Petition No.1324/2011 before the Hon'ble Delhi High Court, and an interim order was passed staying the operation of the order in the OA.

2. The grievance of the applicant is that she is not being paid the pension and other retirement benefits. Earlier, the respondents passed an order dated 20.01.2020 informing the applicant that the pension papers were returned by the Pay and Accounts Office by referring to the order of punishment, and pendency of the proceedings before the Hon'ble High Court. The same stand was reiterated in the order dated 14.02.2020. The applicant filed this OA with a prayer to direct the respondents to release the pension and other retiral benefits.

3. We heard Shri Padma Kumar S., learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents at the stage of admission.

4. We do not feel the necessity of admitting and issuing notice since all the facts are borne out by record, particularly, by the impugned orders dated 20.01.2020 and 14.02.2020.

5. Once the applicant retired from service on 30.10.2019, the concerned department has forwarded her pension papers. However, in the order dated 20.01.2020, it is mentioned that the pension papers were returned by referring to the order of punishment and the proceedings that ensued thereafter. All that was in the context of verifying whether the applicant is clear from vigilance angle. The same is reiterated in the subsequent order dated 14.02.2020.

6. Things would have been different altogether, had it been a case where any disciplinary proceedings were pending against the applicant by the time she retired from service. It is not so. More than a decade ago, she was imposed a punishment of reduction of pay scale by two stages, and that in turn was set aside by this Tribunal. The pendency of the Writ Petition in the Hon'ble High Court of Delhi, and the interim orders passed therein would lead to a situation where the order of punishment is already

in force. The respondents can work out the pension of the applicant as though the punishment imposed against her through order dated 10.11.2009 is in force. It is axiomatic that in case the High Court allows the Writ Petition, nothing remains further to be done, and if, on the other hand, the Writ Petition is dismissed, the pension needs to be revised by taking away the impact of the punishment. Either way, there cannot be any justification for withholding the pension of the applicant. Time and again, the Hon'ble Supreme Court held that the pension is a right to property, and it cannot be withheld, particularly, when no disciplinary proceedings are pending.

7. We, therefore, dispose of the OA directing the respondents to release the pension and other retiral benefits of the applicant on the basis that the punishment imposed through order dated 10.11.2009, is in force. The exercise in this behalf shall be completed within a period of two months from the date of receipt of copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/