



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

(order reserved on 18.1.2021).

O.A.No. 060/0629 of 2020
Chandigarh, this the 22-1-2021.

CORAM: HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Rita Passi wife of Sh. Anoop Kumar Passi, Primary Teacher (Retd), Kendriya Vidyalaya Baddowal Cantt. District Ludhiana, r/o JH554, BRS Nagar, Ludhiana-141 012.

Applicant

(BY ADVOCATE: Mr. I.S.Parmar)

Versus

1. Union of India through Commissioner Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110 016.
2. Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, SCO No.72-73, Sector 31-A, Chandigarh-160030.
3. Principal, Kendriya Vidyalaya, Baddowal Cantt. District Ludhiana-141 008.

(BY ADVOCATE: Mr. R.K.Sharma)

.. Respondents

ORDER

HON'BLE MRS. AJANTA DAYALAN, MEMBER(A).

1. The present OA has been filed by the applicant Rita Passi seeking payment of interest @ 18% on delayed payment of pensionary benefits to her.
2. The applicant Rita Passi was a regular and confirmed employee of the respondents and retired as Primary Teacher from Kendriya Vidyalaya, Baddowal Cantt. District Ludhiana on 30.6.2019. After her retirement, the



applicant was entitled for pension and other retiral benefits with effect from 1.7.2019. The same were also sanctioned by the respondent department even before her retirement on 21.6.2019 itself. This is evident from copies of sanction orders attached as Annexure A-2. These sanctions included the following :-

i)	Pension (plus dearness relief as admissible from time to time)	Rs.33000/- per month
ii)	Gratuity	Rs.11,82,720/-
iii)	Encashment of leave (unutilized 207 days of earned leave and 93 half pay leave)	Rs.6,24,624/-
iv)	Commutation of pension (as the applicant commuted Rs.13,200/- per month). Her reduced pension after commutation was Rs.19,800/- per month.	Rs.12,97,930/-

The applicant was disbursed only GPF amount of Rs.28,86,265/- on 25.7.2019 and GIS amount of Rs.32854/- on 29.8.2019. No amount as sanctioned above was disbursed to her except pension.

3. According to the applicant, she made two representations dated 5.9.2019 and 30.1.2020 through registered post requesting for release of retiral dues as well as payment of interest on delayed payment. These have, however, not been appended with the OA. When the payment was still not released, she sent legal notice on 18.2.2020 making the same request. Finally, the entire retiral benefits were released to the applicant on 31.3.2020.



4. The applicant had earlier opted for commutation of pension with effect from 1.7.2019. The lump-sum amount of commutation i.e. Rs.12,97,930/- was released to her on 31.3.2020, but she was only paid reduced pension with effect from 1.8.2019. According to the applicant, this reduction of pension should have been done from 31.3.2020 when the commutation amount was paid to her.
5. Besides this, the applicant has also stated that the respondents paid the balance amount of commutation of pension i.e. Rs.1,17,949/- on 31.7.2020 whereas the same was due to be paid on 30.6.2019.
6. Thus, the applicant has stated that basically her retiral dues namely DCRG, encashment of leave and commutation of pension were paid on 31.3.2020 except the minor portion of commutation of pension of Rs.1,17,949/- which was paid on 31.7.2020. She has pleaded that all were to be paid on the date of her retirement i.e. 30.6.2019, but were paid only in March 2020. Thus, there is delay of nine months in payment of her retiral dues. She has, therefore, stated that she is entitled for interest on delayed payment.
7. The respondents have contested the claim of the applicant. They have stated that the retiral dues were sanctioned in time even before her retirement, as admitted by the applicant herself and as is also clear from Annexure A-2. However, the same could not be paid for want of



sufficient grant from the Ministry of Human Resource Development. As such, conscious decision was taken by the KVS vide letter dated 3.10.2019 (Annexure R-1) to issue payment orders to pensioners of KVS for the gross amount of pension without deduction of commuted portion with effect from 30.9.2019. Accordingly, the PPO of the applicant was also revised. After receipt of funds and release of commutation of pension, the PPO of the applicant was again revised to make payment of amount of pension after deduction of commuted value of pension.

8. The respondents have further stated that the applicant has not approached this Tribunal with clean hands and has concealed true and material facts. She was all through intimated about the fact of non-release of funds from the Ministry/KVS headquarters and copies of all communications were endorsed to her. However, she has concealed these facts from the Tribunal. As such, she is not entitled to any relief in view of number of judgments of Hon'ble Apex Court including that of **S.P.Chengalvaraya Naidu (dead) by LRs** versus **Jagannath (dead) by LRs** reported as AIR 1994 SC 853)
9. The respondents have further stated that no representation as made out by the applicant in the OA was received by the respondents. Only one representation dated 29.11.2019 was received and was replied vide respondents letter dated 4.12.2019. This reply is annexed



as Annexure R-8. Even legal notice sent by the applicant was replied vide letter dated 2.3.2020 and it was informed therein that dues will be cleared on receipt of funds from KVS HQs. This reply is annexed as Annexure R-9. Besides, the respondents have stated that there is no abnormal delay in release of retiral dues. The retiral benefits were released immediately on receipt of funds in the month of March 2020. Even the deduction of commuted value of pension was stopped with effect from 1.8.2019 and she was paid reduced pension only with effect from 30.3.2020 only as per revised PPO order dated 27.3.2020 (Annexure R-7).

10. The respondents have further stated that the circumstances in this case are quite distinguishable and not applicable to those in which the judgments relied upon by the applicant have been based. They have also stated that delay was not at all intentional and was on account of financial constraints. It was as per general policy decision that she could not be paid retiral dues in time. Also, she has concealed material facts from the Tribunal and has not approached the Tribunal with clean hands. The OA, therefore, does not have any merit and deserves to be dismissed.
11. I have heard the counsel of opposing sides and have also gone through the pleadings of the case. I have given my thoughtful consideration to the entire matter.



12. Firstly, I note that the facts of the case are not disputed. The applicant retired as Primary Teacher from Kendriya Vidyalaya on 30.6.2019. She was sanctioned her retiral dues prior to her retirement by the respondent department. However, the same could not be paid to her due to lack of funds from the Ministry/ KVS headquarters. She only received GPF and GIS in July and August 2019. She is also receiving her pension regularly. However, her other retiral dues namely encashment of leave, DCRG and commutation of pension were released only on 31.3.2020 after receipt of funds from the Ministry/KVS headquarters. Small remaining amount towards commutation of pension amounting to Rs.1,17,949/- was released on 31.7.2020. The applicant has claimed interest on delayed payments. These facts are not disputed.
13. I, however, note that in the OA though the applicant has gone in length stating about all the communications made by her to the respondent department including two representations and a legal notice, there is not a whisper in the OA about receipt of any reply from the respondents. Even the basic fact of non-disbursement of retiral dues due to lack of funds (of which she was fully aware) has not been mentioned in the OA by the applicant at all. This seems to be a deliberate attempt by the applicant to mislead the Tribunal from appreciating the whole picture. This attempt is, therefore, deeply deprecated by this Tribunal.



14. I further note that even though the applicant has stated that she made two representations to the department on 5.9.2019 and 30.1.2020 through registered post, the same have not been attached with the OA by the applicant. Only a mention has been made that these are not being attached for the sake of brevity and copies of the same will be produced as and when directed by this Court. However, the respondents have clearly denied this fact. They have stated that no such representations were received by them. Only one representation dated 29.11.2019 was received. This was also replied by respondents vide letter dated 4.12.2019. A copy of the same is annexed as Annexure R-8. I note that this is a letter sent to the applicant at her residential address as given in the memo of parties in this OA. The same has been despatched by speed post. It clearly informs that funds have not been received from KVS headquarters for disbursement of pensionary benefits since March 2019. Even the reply to legal notice dated 2.3.2020 is annexed as Annexure R-9 and is addressed to the legal counsel. It is, therefore, clear that the applicant has tried to distort facts and given only one sided picture and not stated anything about the replies received from the respondents. The effort to give exclusively one side picture and stating only of her communications and not mentioning anything about the replies received is definitely not fair and appropriate on the part of the applicant. It is an effort to



distort the facts. I also note that though this plea has been taken in the written statement by the respondents, but the same has not been rebutted by the applicant either by filing a rejoinder or during arguments. So, in a way it is an admission by her.

15. On the other hand, I do note that undisputedly there is delay in disbursement of retiral benefits to the applicant. Considering that the retiral benefits were due to her on her retirement on 30.6.2019, but commutation of pension (except a minor portion), encashment of leave and DCRG have been paid only on 31.3.2020, the delay is basically of nine months. Based on the chart given in para 4(ix) of the OA, the total amount where delayed payment has been made comes to above Rs. thirty lakhs. However, it is clear from the written statement as well as reply sent to the applicant that the delay is not due to any mala fide intention, but due to genuine difficulty of lack of funds in the Organization.
16. Thus, in essence, the retiral dues of the applicant (namely DCRG, encashment of leave and commutation of pension) were delayed by nine months and the total amount involved is above thirty lakhs. Normally the applicant would be entitled for interest on any such delay beyond a reasonable period of time say three months.
17. However, the delay was due to non-receipt of funds from the Ministry/KVS headquarters and was not for applicant alone but for the other retirees as well. Also, the delay



was not intentional on the part of the respondents. Moreover, keeping in view the conduct of the applicant while filing this OA, and making an effort to conceal some material facts as discussed above, I would not like to allow interest at rates normally allowed in such cases. At the same time, I would not like to totally deny her the interest on delayed payment.

18. I think the ends of justice would be met if the applicant is allowed interest for delayed payment beyond three months but only at the rate of 4% per annum.
19. The OA is accordingly disposed of with the above directions.

(Ajanta Dayalan)
Member (A)

Place: Chandigarh
Dated: 22-1-2021.

KKS