

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 350/00531/2020

Date of order: 11.11.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Ashok Kumar Paul,
 Son of Late Ranjit Kumar Paul,
 Aged about 62 years,
 Worked as CMD (SG),
 MES/203833 under AGE,
 E/M(C), Kolkata Sub-Division, Kolkata,
 Residing at Village - Chakohatta (New Park),
 P.O. - Kaipur,
 P.S. - Maheshtala,
 District - 24 Parganas (S),
 Kolkata - 700 141,
 West Bengal.

.....Applicant.

-versus-

1. Union of India, service through the Secretary,
 Ministry of Defence,
 Army Head Quarter,
 Government of India,
 Kashmir House,
 P.O. - DHO,
 New Delhi - 110 011.
2. The PCDD (Pension),
 Allahabad,
 Drapadi Ghat,
 Prayagraj,
 Uttar Pradesh - 211 014.
3. The Head Quarters,
 Eastern Command,
 Engrs. Branch,
 C/o. 99 APO.
4. Chief Engineer,
 Head Quarters,
 Eastern Command,
 Fort William,
 Kolkata - 700 021.

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5. Garrison Engineer (Central),
 Kolkata Military Engineer Services,
 T/37, Napier Road,
 P.O. Hastings,
 Kolkata - 700 022.

.. Respondents

For the Applicant : Mr. T.K. Biswas, Counsel

For the Respondents : Mr. S. Paul, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved at non-payment of his retiral benefits, the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- (a) An order directing the respondents to release the retirement benefits i.e. Pension, Gratuity, Leave Encashment, Commutation of Pension without any further delay and the applicant is entitled to interest for delay payment.
- (b) An order directing the respondents to consider the representation dated 16.3.2020 (Annexure "A-6") and representation may consider in terms of order dated 31.1.2020 (Annexure "A-4") basis.
- (c) Any such other order or orders as to this Hon'ble Tribunal may deem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. Ld. Counsel for the applicant would submit that the applicant, a superannuated employee of the respondent authorities, had met with a road accident while driving a Government vehicle. No disciplinary proceedings were ever initiated against the applicant within his service period but the respondents had unreasonably and arbitrarily withheld his final pension as well as retirement/settlement dues, and, therefore, being

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aggrieved, has approached this Tribunal praying for the aforementioned relief.

4. Ld. Counsel for the respondents has submitted a short reply wherefrom it transpires that the respondents have already paid GPF and CGEGIS dues to the applicant and that his provisional pension is also being paid to him as per the table below:-

"DETAILS OF ADMISSIBLE DUES ALREADY PAID TO MES-203833 SHRI ASHOK KUMAR PAUL, EX-CMD (SG) OF GE (C) KOLKATA AFTER HIS RETIREMENT (RETIRED ON 28 FEB 2018)

Sl. No.	Description	Amount paid	Paid on or Paid for the period of	Remarks
1.	Pension	Rs. 26,000/- + D.A. per month as admissible	01 Mar 2018 to till date	Paid provisional pension at the rate of amount final pension to be fixed.
2.	GPF	Rs. 20,29,248/-	09 Apr 2018	Paid in full
3.	CGEGIS	Rs. 36,550/-	13 Jul 2018	Paid in full

The respondents have also clarified that during his service period, the applicant had met with an accident on 13.12.2016, while on duty. Two court cases had been initiated thereafter, one being a Criminal Case before the Ld. Additional Chief Judicial Magistrate at Sealdah vide Case No. 576 of 2016 filed by the state and another bearing MACC No. 28 of 2017 and 29 of 2017 filed by the father of the victim for compensation.

Accordingly, while GPF and CGEGIS could be disbursed to him in full, provisional pension was released to him as due based on the applicant's declaration that he is unwilling to commute any fraction/percentage of his pension.

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Ld. Counsel for the respondents would clarify further that the Gratuity payable to the applicant, however, has been withheld under Rule 39(3) of CCS (Leave) Rules, 1972 which states that, a Government servant, who retires from service on attaining the age of superannuation during the pendency of criminal proceedings, will only become eligible to the Leave Encashment amount so withheld after adjustment of Govt. dues, if any, after completion of proceedings.

Further, as per Rule 69(1)(c) of CCS (Pension) Rules, 1972 no gratuity is payable to the Government servant until conclusion of department/judicial proceedings and issue of final orders thereon.

Ld. Counsel for the applicant would aver in response that, as the accident was consequent to the activities of the applicant in his personal capacity and has nothing to do with his service conditions, the provisions of CCS (Leave) Rules, 1972 and CCS (Pension) Rules, 1972 will not apply to the applicant.

Ld. Counsel for the applicant would, therefore, pray that the applicant be permitted to prefer a comprehensive representation to the respondent authorities citing rules and judicial ratio in support so as to claim his entitlement to the withheld Gratuity and Leave Encashment.

5. Accordingly, we would permit the applicant to prefer such a comprehensive representation to the competent respondent authority within a period of 3 weeks from the date of receipt of a copy of this order. Once so received, the said authority shall examine his prayer in accordance with law, and, thereafter decide and convey such decision to the applicant within a further period of 8 weeks thereafter.

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In the event the applicant's claim are found to be justified, Gratuity and Leave Encashment, which have been kept on hold, should be released to the applicant within a further period of 12 weeks and his provisional pension should also be finalized as per rules within the same period.

- With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP