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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

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O.A. No. 1207/87
T.A. No.

199

DATE OF DECISION 12.8.1991

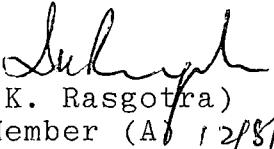
Dr. K.M. Palit Petitioner
Shri K.L. Bhatia Advocate for the Petitioner(s)
 Versus
Union of India & Ors. Respondent
Mrs. Raj Kumari Chopra Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? yes
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? no
4. Whether it needs to be circulated to other Benches of the Tribunal ? no


 (I.K. Rasgotra)
 Member (A) 12/8/91


 (T.S. Oberoi)
 Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1207/1987

DATE OF DECISION: 12.8.1991

DR. K.M. PALIT

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT SHRI K.L. BHATIA,
COUNSEL.

FOR THE RESPONDENTS MRS. RAJ KUMARI
CHOPRA, COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

In this application, filed by Dr. K.M. Palit, under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the following orders:-

- i) Order dated August 7, 1987 (Annexure A-1) wherein the Respondent No.1 (Secretary Ministry of Labour) has advised the applicant to apply for leave for the period 9.9.1980 to 9.1.1981 so that the said period can be regularised with a view to finalise his pension case. This advice to Dr. Palit is in turn based on Department of Coal's letter dated 29.12.1986 (Annexure A-2) according to which Dr. Palit, Ex-Chief Medical Officer, Naisarai, on transfer from Naisarai to Parasia had not signed the relinquishment report in Naisarai, nor

had he joined at Parasia although his reliever Dr. A.S. Chhetri had joined Naisarai on 9.9.1980. Dr. Palit signed the relinquishment report only on 9.1.1981 on transfer to Delhi. In these circumstances, Dr. Palit is required to take leave for the period 9.9.1980 to 9.1.1981 to regularise his services for the said period.

ii) Order dated 30.4.1983 issued by Respondent No.3 (Department of Coal). This order is addressed to the Medical Superintendent, Central Hospital, Central Coal Field Ltd., Naisarai, P.O. Ramgarh Cantt., Distt. Hazaribagh with the request to release Dr. Palit, General Duty Officer, Grade I of the Regional Hospital, Naisarai to enable him to join Delhi Administration immediately after obtaining no demand certificate.

iii) Order dated April 21, 1986 issued by Ministry of Labour, sanctioning provisional pension at the rate of Rs.1452/- per month w.e.f. 1.3.1986 six months or till the final orders for payment of pension to Dr. K.M. Palit are issued by the Pay & Accounts Officer, Ministry of Labour whichever is earlier. The order further communicates sanction for payment of D.C.R.G. after making a deduction of an amount of Rs.1,791.66 for over payment of salary for the period from 15.7.1966 to 19.8.1969 and Rs.1,000 as required under Rule 64 (4) (a) (ii) of

SL

CCS Pension Rules.

iv) Letter dated 29.10.1986, issued by Respondent No.2, advising him that various concerned authorities have already been asked to take necessary action regarding the sanction of pension and payment of arrears of pay and allowances for the periods mentioned in the above notice.

2. By way of relief the applicant has prayed that the respondents be directed to arrange payment to him of the amounts due to him, as listed below, without any further delay:-

- i) Rs.1,791.66 deducted as salary over-paid to him for the period 15.7.1966 to 19.8.1966,
- ii) Rs.1,000 deducted in pursuance of Rule 64 (4) (a) (ii) of CCS Pension Rules which is due to be released after six months under the provisions of Sub-Rule 7 of Rule 64.
- iii) Final pension should be sanctioned.
- iv) The salary for the period 1.9.1980 to 9.1.1981 should be paid and amount due to him on account of revision of salary, pension and gratuity consequent to the implementation of the Fourth Central Pay Commission's scales of pay w.e.f. 1.1.1986 should be paid to him.
- v). He should be paid the arrears of pay on account of stepping up of pay, as sanctioned by the President vide order of the Ministry of Health and Family Welfare dated 19th August, 1991 (Annexure A-12).

3. We have heard the learned counsel Shri K.L. Bhatia for the applicant and Mrs. Raj Kumari Chopra for the respondents. We deal with each of

the claims of the applicant in the paragraph that follows.

i) The main dispute in the finalisation of pension etc. of the applicant is the delay in regard to the treatment of the period from 9.9.1980 to 9.1.1981 when he was said to have been transferred from Naisarai to Parasia which order he has not carried out. The applicant's plea is that he was intimated by the Deputy Commissioner, Dhanbad that he has been posted to Parasia. However, in absence of an order from the competent authority viz. Cadre Controlling Authority he could not hand over the charge to any body. He, therefore, continued at Naisarai till the order of the Cadre Controlling Authority dated 25/26.11.1980, transferring him from Naisarai to Delhi was received. Accordingly, the applicant relinquished the charge at Naisarai on 9.1.1981. He was, therefore, on duty at this time at Naisarai and therefore the question of applying for leave for the said period does not arise. Dr. K.M. Palit was transferred by the Ministry of Health and Family Welfare vide order dated 25/26.11.1980 (Annexure A-9) from Naisarai Hazaribagh, Bihar to Delhi Administration, Delhi. There is no material on record to indicate that he was transferred by the competent authority. Accordingly the salary and period from 9.9.1980 to 9.1.1981 is required to be treated as duty and the applicant is entitled to payment accordingly. Once this period is regularised the provisional pension sanctioned to the applicant should be finalised and PPO for final pension issued.

ii) Regarding the over-payment of Rs.1791.66 the respondents have accepted their liability vide paragraph 6.7 of the counter as the applicant is

said to be entitled to the full pay and allowances for the period 15.7.1966 to 19.8.1966. The delay in finalisation of the payment appears to be the lack of follow up action on the part of the respondents.

iii) The applicant retired on 28.2.1986. Accordingly, the amount of Rs.1,000 is due for refund to him and should be released forthwith.

iv) With the regularisation of the period 9.9.1980 to 9.1.1981 there should not be any further delay in sanctioning the final pension to the applicant.

v) Arrears on account of differential in pension, if any, between the amount of final pension and provisional pension actually paid, the differential in gratuity, leave encashment, etc. consequent to refixation of his pay as on 1.1.1986 in accordance with his option should also be paid to him expeditiously. The differential amount of gratuity shall be paid with interest at 10% for the period 24.4.1986 to the date of actual payment.

The due and drawn statement for the period 20.1.1981 to 31.10.1981 (page 76 of the paper book) has been sent by Directorate of Health Services, Delhi Administration to the Ministry of Labour, granting him arrears of increments amounting to Rs.4115.75 which were not granted to him earlier. The payment thereof should be arranged to him without any further delay.

vi) The due and drawn statements for the period 11.7.1975 to 19.1.1981 on account of stepping up of his pay sanctioned vide Ministry of Health and Family Welfare O.M. dated 19.8.1981

(page 32 of the paper book) should be got prepared by the Department of Coal and amount paid to the applicant within the shortest possible time.

vii) Lastly the applicant has been paid an amount of Rs.1608 on account of accumulation in the saving fund account of the Central Government Employees Group Insurance Scheme, 1980. His contention is that he has been subscribed to the CGEGIS at the rate of Rs.80 to the Group Insurance Scheme while he has been paid only a small amount. The scheme of CGEGIS came into effect from 1.1.1980. The applicant retired on 28.2.1986. Under the scheme there are two funds viz. Insurance Fund and Saving Fund. The employees who retired prior to 31.12.1987 are entitled to refund of only 68.75% of the subscription together with relevant rate of interest. The amount apportioned to Insurance Fund is not refundable. A rough calculation shows that the applicant under the scheme would be entitled to a refund of over Rs.2,600 togetherwith interest at the rate prescribed from time to time. The respondents should, therefore, verify the amount paid to him and make good the short fall togetherwith interest. The applicant should also be paid any amount which may be due to him under the Group Insurance Scheme which was introduced in 1977 and replaced by the CGEGIS, 1980.

After perusing the record and having carefully considered the matter we are of the view that avoidable financial hardship has been caused to the applicant by the respondents in dealing with his case.

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In the facts and circumstances of the case, we order and direct that the payments due to the applicant, as listed above should be made to him within a period of three months from the date of communication of this order. We further direct that the final pension payment order shall also be issued to him and arrears of pension, if any, credited to his account during the same period. As the delay in the finalisation of the retirement benefits is entirely on account of the respondents, we consider it a fit case for award of costs to the applicant. We order that the respondents shall pay to the applicant Rs.5,000 as costs.

I.K. Rasgotra
(I.K. RASGOTRA)
12/8/91
MEMBER (A)
12.8.91.

T.S. Oberoi
(T.S. OBEROI)
12/8/91
MEMBER (J)
12.8.91.