

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 658/1990

New Delhi this the 15th Day of July 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri S.R. Adige, Member (A)

Shri P.R. Sharma,
son of Late pt. Ram Chand,
Resident of 110, Sadanpuri,
Kankarkhera,
Meerut.

... Applicant

(By Advocate : none)

Vs.

1. Union of India, through
Ministry of Defence,
(Finance Division),
Govt. of India,
New Delhi.

2. Controller General of Defence Accounts,
West Block-V,
R.K. Puram,
New Delhi.

3. Commissioner for Departmental Inquiries,
(Presently Shri D. Prakash),
Central Vigilance Commission,
Jamnagar House,
Akbar Road,
New Delhi.

... Respondents

(By Advocate : Shri P.H. Ramchandani)

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant filed this application under Section 19 of the Administrative Tribunal Act, 1985 for reliefs of gratuity and commutation of pension withheld under C.D.A., Central Command, Meerut letter dated 17.8.1989 and also dropping of the departmental enquiry covered under order dated 2.3.1990. The applicant was served with a minor penalty chargesheet by the Memo dated 18.6.1985 but the C.D.A., Central Command, Meerut cancelled the said proceedings

instituted by the letter dated 18.5.1985 without prejudice to issue fresh chargesheet under Rule 14 of the CCA(CCA) Rules, 1965 for major penalty. By the Memo dated 12.2.1987 a major penalty chargesheet was issued against the applicant, which continued under Rule 14 & 15 of the CCA (CCA) Rules 1965. The Enquiry Officer hold that the charges against the applicant have not proved. The applicant, however, retired on superannuation on 31.3.1986. The President, however, disagreed with the Enquiry Officer's conclusion but observing that there is no evidence of connivance or lack of integrity on the part of the applicant, the President considered that the departmental proceedings under Rule 9 of the CCS (Pension) Rules 1972 may be closed. These are the developments which have taken place subsequent to the filing of the Original Application.

2. The applicant in the Original Application has prayed that the departmental proceedings pending before the Respondent No. 3 be declared Null & Void. Since the departmental enquiry has already been concluded and final orders have been passed by the President dated 19.2.1992, the relief prayed for becomes redundant. The other relief prayed for by the applicant is releasing of the pension, gratuity and commutation of pension alongwith 12% per annum (simple interest). The respondents filed the reply before the aforesaid enquiry was dropped on 23.8.1990. They have taken the stand that since disciplinary case is pending against the applicant withholding of gratuity and commutation value of pension is not illegal in terms of Rule 9 of the CCS (Pension) Rules 1972 read with conjunction with Rule 69 of CCS (Pension) Rules 1972 and Rule 4 of CCS Commutation of Pension Rule 1981. The main question, therefore, now is whether the applicant is entitled to the grant of interest on the delayed payment of commutation of pension and gratuity. The Counsel for the respondents has filed a

8

letter received by him dated 18.1.1992 from the Accounts Officer informing him that ~~we~~ withheld amount of gratuity i.e. Rs. 19579/- and commuted value of pension amounting to Rs. 23,974/30 paise has been released provisionally and a cheque of Rs. 43,550/30 dated 27.5.1992 has been sent to the Punjab and National Bank in the Bank Account of the Applicant No. 12499 (Kankarkheda Branch, Meerut). This goes to show that these payments have been delayed by about six years. There is a Govt. of India OM of DOP&AR dated 11.7.1971(4)/PEN Unit/82 dated 10.1.1983 regarding admissibility of interest of gratuity allowed after conclusion of judicial/departmental proceedings. The aforesaid OM quoted below:

Government of India's Decisions

- (1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings.-1. Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time-table for finalising pension and death gratuity has been laid down, vide Rule 77 onwards.
- (2) Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority.
- (3) In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due to the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The ~~purpose of payment of interest on delayed payment of gratuity~~ benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped.
- (4) These orders (paragraph 3) shall take effect from 10.1.1983.

3. None appeared for the applicant and Shri P.H. Ramchandani for the respondents. Since this is an old matter we decide the same on merit. The contention of the learned counsel for the respondents is that the proceedings have been dropped but in the order dated 17.2.1992 passed by the President it is stated that the President in disagreement with the Enquiry Officer's conclusion that no misconduct is established, because the application for withdrawal of GPF was processed in a routine manner, holds that charges are proved factually but there is no order of connivance or lack of integrity on the part of Shri P.R. Sharma. He has been found to be negligent in the performance of his duties as he failed to verify the credit balance and when the normal prudence and explicit advice of GE Roorkee required him to examine the matter thoroughly with reference to records. Thus, it is argued that the applicant has not been fully exonerated. However, it is not so. When the proceedings are dropped, it clears the blame levelled against the delinquent and the charges framed against him are not established. The President has not given any reason of making the aforesaid observations nor any occasion was given to the delinquent/applicant to make representation against the same. This order of the President dated 19.2.1992 will fully exonerate the applicant the facts mentioned in the order will not in any way mitigate the clean exoneration given to the applicant against the charges framed against him. This contention of the learned counsel of the applicant cannot be accepted.

4. In the above facts and circumstances the application is partly allowed with the direction to the respondents to pay interest at the rate of 12% per annum (Simple interest) to the applicant on the amount of gratuity as well as on the commutation of the pension with effect from 1.7.1986 till

-: 5 :-

the date of issue of cheque in the name of the applicant i.e. 27.5.1992. The respondents are directed to comply with the direction from the date of the receipt of the copy of this order. In the circumstances, the parties to bear their own costs.

Adige
(S.R. Adige)
Member(A)

Sharma
(J.P. Sharma)
Member(J)

Mittal