

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1104/2004

New Delhi, this the 20th day of December, 2004

Hon'ble Shri S.K. Naik, Member(A)

R.C. Aggarwal

127-A, Baldev Park, Delhi-110051 ..

Applicant

(Shri R.P. Kapur, Advocate)

versus

Government of NCT of Delhi, through

1. Chief Secretary

Old Secretariat, IP Estate, Delhi

2. Director of Education

Old Secretariat, Delhi ..

Respondents

(Shri Ajesh Luthra, Advocate)

ORDER

The applicant, who has since retired from service on 31.8.2003 on superannuation, while working as PGT in the respondent-school was placed under suspension vide Memo dated 22.9.1997 and thereafter charge-sheeted for major penalty under Rule 14 of CCS(CCA) Rules, 1965 vide Memo dated 3.12.1998. Thereafter, an enquiry was conducted and copy of the inquiry report was served on the applicant to make his representation. Applicant made his representation on 15.7.2003. After considering the same, and taking into account the gravity of lapse on the part of the applicant, the disciplinary authority awarded censure to the applicant vide order dated 27.8.2003, i.e. four days prior to his retirement. By subsequent orders dated 29.8.2003 and 31.12.2003, the suspension of the applicant was revoked and the period of suspension was treated as spent on duty for all purposes as per FR 54B, respectively.

2. The grievance of the applicant in the present application is that the respondents have not paid DCRG, commutation of pension, leave salary, arrears of full pay etc. which has caused loss to him and that respondents be directed to pay interest on the delayed payments.

3. Learned counsel for the applicant has contended that while the applicant was placed under suspension during September, 1997, he was charge-sheeted for major penalty only during December, 1998 and thereafter departmental proceedings dragged on for a number of years and finally culminated in awarding of only



“censure” vide order dated 27.8.2003, only 4 days prior to his retirement. Thus, applicant cannot be held responsible for the years of delay and the mere punishment of “censure” should not have been made the case of delaying retiral benefits. It has taken more than four months after the award of punishment to decide the matter with regard to the period of suspension. According to the learned counsel, provision of FR 54(b) is quite clear that respondents have no other choice but to treat the period of suspension on duty for all purposes. This delay therefore has to be attributed to the respondents. Further, even after the passing of order dated 31.12.2003 to treat the period of suspension as spent on duty, respondents have taken more than three months to release the retiral benefits for which again it is the respondents who were to be blamed. He therefore submitted that the respondents be directed to pay interest on the delayed payment.

4. Learned counsel for the respondents, contesting the application, has contended that on the basis of disciplinary proceedings pending against the applicant, no action could be taken to release DCRG and other retiral benefits as per Rules. It is no gain arguing that the delay in culmination of departmental proceedings was because of the respondents at this point of time, especially when the fact as to it was the applicant who was responsible for the delay or the special circumstances warranting such delay. Therefore, the date of culmination of departmental proceedings resulting in imposing penalty of “censure” and thereafter the date of order of the competent authority to decide the period of suspension has to be relevant date

5. Countering the argument of the learned counsel for the applicant, who has relied on Rule 68 of the Pension Rules, learned counsel for the respondents has submitted that as per guidelines under Government of decision dated 22.1.1999, in cases where a Government servant is not fully exonerated on the conclusion of departmental proceedings and where the competent authority decides to allow payment of gratuity in such cases, the relevant date will be the date of issue of the order passed by the competent authority and interest will be payable for the period of delay beyond three months from the date of issue of such an order by the competent authority. In the case in hand, order to treat the period of suspension as spent on duty was issued on 31.12.2003 and retiral benefits have been released to the applicant within three months thereafter. Therefore the counsel contends that the applicant cannot derive any benefit even under the Rule on which he relies.

6. I have heard the learned counsel for the parties and considered the pleadings.

7. I am in agreement with the view expressed by the learned counsel for the respondents that in keeping with the provision of the Pension Rules, interest will be

payable only in cases where delay of more than three months has occurred in the release of retiral benefits. In the case in hand, when the applicant retired on 31.8.2003, retirement benefits have been released on 31.12.2004. On the face of it, it does appear that there has been delay of seven months. However, the fact remains that the applicant was facing departmental proceedings at the time of his retirement which finally culminated in passing of order on 31.12.2003 vide which the competent authority decided to treat the period of suspension as spent on duty. Without this decision by the competent authority, the issue of release of retiral benefits would not have been finally settled. From the pleadings of the parties, I also find that in the process of finalising retiral benefits, papers had to be referred to the applicant, which also must have caused some delay. However considering that within 3 months of passing the final order, respondents have released the retiral benefits, in my view, there is no case for payment of interest.

8. The OA accordingly fails and is dismissed. No costs.


(S.K. Naik)
Member(A)

/gtv/