

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 545/2004

New Delhi, this the ²⁰23 day of December, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Sh. M.G.Goel
S/o Late Shri Debi Ram
R/o E-80, East of Kailash
New Delhi 110 065.
Retired Supdt.
Directorate of Education
Govt. of NCT of Delhi.

...Applicant

(By Advocate Sh. T.D.Yadav)

V E R S U S

1. Govt. of NCT of Delhi
Chief Secretary
Govt. of NCT of Delhi
I.P.Estate, New Delhi.
2. Director of Education
Govt. of NCT of Delhi
Old Secretariat, New Delhi.
3. Controller of Accounts
Principal Accounts Office
Govt. of NCT of Delhi
A-Block, Vikas Bhawan
I.P.Estate, New Delhi.
4. Pay & Accounts Officer No.1
Govt. of Delhi, West Block No.7
R.K.Puram, New Delhi - 110 066.

...Respondents

(By Advocate Sh. George Paracken)

ORDER

This application has been filed against the respondents' letter dated 24-2-2004 whereby they have refused to consider the request of the applicant for payment of interest on delayed payment of pensionary benefits, which, according to him, were paid after over seven years.

8-12-04

2. The applicant, who initially joined on 1-7-59 as a Jr. Auditor, retired on superannuation on 31-10-94 from the post of Supdt. Gr.I DASS Cadre. He had, however, been placed under suspension three days prior to his superannuation, as disciplinary proceedings had been contemplated/pending against him, and accordingly he was sanctioned only provisional pension under Rule 69 of the CCS (Pension) Rules and that the amounts of DCRG and commutation of pension were withheld. The applicant has claimed that he was given a clean chit in the FIR No.5/95 stating that during the course of investigation nothing adverse against him had come to their notice. This was conveyed by the Anti Corruption Branch vide their letter dated 5-10-2001, on the basis of which, A.O., Vigilance, Directorate of Education ordered release of his dues vide their letter dated 24-12-2001. With this, his period of suspension from 28-10-94 to 31-10-94 was also treated as period spent on duty for all purposes under FR 54 (B). However, the amounts of pensionary benefits which were required to be released vide the said order were actually received by him on different dates in the year 2002-03. He has alleged that there have been delays of over seven years in making these payments with reference to date of his retirement on superannuation. The details of the amounts due to him, the dates on which these amounts were due to him and the dates of actual payments and the amounts of interest which should have accrued to him as a result of delays thus made, have been given by him in paragraph 4.6 of the OA.

3. The applicant has cited the decisions of this Tribunal as also the Hon'ble Supreme Court in the following cases in support of his contention that he should be paid interest on delayed payments of these amounts:-

- i) OA 1669/2001 decided by this Tribunal on 22-11-2001 in the case of Jiwa Ram Rathore (Retd.) v. UOI & Ors.
- ii) OA 2592/96 decided by this Tribunal on 6-11-1997 in the case of Smt. Santosh Verma v. Govt. of NCT of Delhi.
- (iii) S.R.Bhanrale v. UOI & Ors. (1996) 10 SCC 172.
- (iv) Vijay L.Mehrotra v. State of UP & Ors. (JT 2000 (5) SC 171).

4. The respondents, however, have maintained that they were not responsible for delay in the payment of pensionary benefits to the

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applicant, as at the time of his retirement on 1-11-1994, the vigilance case was pending against him and that he was suspended w.e.f. 28.10.1994. He could, therefore, have been paid only provisional pension under Rule 69 of the CCS (Pension) Rules, 1972 commencing from 1-11-1994. They had withheld the amount of DCRG and Commutation of Pension during the pendency of the vigilance case. They have admitted that Anti Corruption Branch vide their letter dated 5-10-2001 Annexure P.2 to the OA did inform the Department that during the course of investigation nothing adverse had come to their notice in the case of the applicant who was working as Supdt. at the relevant time. They have also admitted that FIR No.5/95 dated 30.3.95 under Section 13 (1) of Prevention of Corruption Act had been filed against two officers, namely, Sh. P.C.Sharma, Cashier and Sh. M.S.Khan, Vice-Principal. It had not been filed against the applicant. On receipt of the letter of the Anti Corruption Branch, the respondents' department have initiated action to release the pensionary benefits withheld by them, also treating the suspension period from 28-10-94 to 31-10-94 as on duty. The applicant had also approached the Pension Adalat in the meantime and, according to the decision of the Adalat, he has submitted Form 1A for commutation of pension.

5. On perusal of the facts as submitted by the two parties, I thus find that while the applicant did not figure in the FIR and, therefore, there was never a vigilance case against him, the respondents took a decision to withhold his pensionary benefits on the ground that vigilance case was pending against him as on 1-11-94. This ground taken by the respondents is, however, not corroborated from what has been stated by the Anti Corruption Branch or the Vigilance Department of the respondents. They seem to have withheld the pensionary benefits due to the applicant under an umbrella situation that something was pending against the applicant. Even the FIR filed on the subject did not include his name. It is, therefore, difficult to appreciate as to how the respondents could have taken the position that a vigilance case was pending against him. Even if it is admitted for a moment that the respondents were not aware of the exact nature of the case, the fact remains that the Vigilance Deptt. is a part of the respondents and they should have taken care to ascertain the position

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from the Anti Corruption Branch. If the said Branch has taken unduly long to come to their finding that there was nothing against the applicant, it would not be rational or reasonable to make the applicant suffer for no fault of his. It is quite obvious that there was no case against the applicant even on the date of his superannuation. The respondents could have come to know of the facts in the matter in regard to the applicant even on the date of his retirement on superannuation if they had attached greater seriousness and urgency to the subject matter which involved payment of retirement benefit to a retiring person. The date of superannuation being known to the respondents, any explanation to defend the delay will not stand a rational scrutiny. The request of the applicant for payment of interest on delayed payments of pensionary benefits is also supported by the decisions of this Tribunal as also the Hon'ble Supreme Court as have been cited by him/his counsel. To deny him the same on the ground that there was a vigilance case against the applicant as on the date of his retirement has not been established by the respondents.

X 6. Accordingly, I am inclined to allow this OA with directions to the respondents that they pay the applicant interest on delayed payments of pensionary benefits, i.e., gratuity, leave encashment, arrears of pension etc @ 12% p.a. as has been allowed in similar cases as decided by this Tribunal as also by the Hon'ble Supreme Court in the cases mentioned above. The interest will be payable to the applicant from the dates these payments were due to him till the dates of actual payments. These payments shall be made at the earliest and, in any case, within a period of three months from the date of receipt of a copy of this order.


(Sarweshwar Jha)
Member (A)

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