



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 1914/2020

This the 28th day of September, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

Sh. Sukh Raj Ram
S/o Sh. Garib Ram
R/o Khoda Colony, Zila Ghaziabad
Sukar Bazar, Near Tiwari Medical Store
Ghaziabad, UP
Age- 59 years, Staff No. MZ-20735
Mo. 9315210760, 9013221518 ... Applicant

(through Advocate: Mr. Vaibhav Kalra)

Versus

1.The Chairman & Managing Director
Mahanagar Telephone Nigam Limited
5th Floor, Mahanagar Doorsanchar Sadan
9, CGO Complex, Lodhi Road, New Delhi-10003
Email: cmd@mtnl.in
cmdmtnl@bol.net.in

2.The Executive Director
Mahanagar Telephone Nigam Limited
K.L. Bhawan, Janpath
New Delhi-110050
edd@bol.net.in.

... Respondents

(through Advocate: Mr. Mohd. Faisal and Mr. R.K. Jain)

**ORDER (Oral)****Hon'ble Mr. R. N. Singh, Member (J):**

In the present OA, the applicant has prayed for the following reliefs:

“(i)Set aside the order/letter dated 31.01.2020 (No. STA-II/16-6/VRS-2019/Acceptance/2019-20) issued by the Respondents;

(ii)Direct the Respondents to release the pending Ex-gratia retiral/terminal benefits including Balance Leave encashment, Balance CPF, Gratuity and Insurance of the Applicant in terms of the VRS scheme dated 04.11.2019, with 18% interest p.a. from the date the amount became due till the payment is made;

(iii)Pass such further order(s) and/or give directions(s) as deemed fit and proper in the facts and circumstances of the case.”

2. Learned counsel for the applicant submits that an identical issue was involved in OA No. 1144/2020 and the same was disposed of by this Tribunal vide its order/judgment dated 05.08.2021. He submits that the present OA may also be disposed of in terms of the judgment dated 05.08.2021. Mr. Mohd. Faisal, learned counsel appearing for the respondents has very fairly admitted that the issue involved in the present OA is identical to that in OA No. 1144/2020 and he is having no objection if the present OA is also disposed of in terms of the judgment

dated 05.08.2021 (supra). The order in OA No. 1144/2020

dated 05.08.2021 reads as under:



“At the outset, the learned counsel for the applicants submits that the issues involved in the present OA are identical to those in OA No.764/2020 tilted **Ganga Vs. Mahanagar Telephone Nigam Ltd.**, which stands disposed of by this Tribunal vide Order/Judgment dated 12.05.2021. He further submits that in view of the above, the present OA may also be disposed of in the same terms.

2. Learned counsels appearing for respondents very fairly admit the aforesaid position.

3. The Order/Judgment dated 12.05.2021 passed in OA No.764/2020 reads as under:-

“The applicants are agitating non-payment of their retiral dues such as gratuity, ex-gratia and terminal benefits etc. The applicants were all employees of Mahanagar Telephone Nigam Limited (MTNL) who opted to seek retirement benefits pursuant to Voluntary Retirement Scheme (VRS) introduced by the organization. The scheme states that the payment of ex-gratia and gratuity shall be paid to the employees opting for retirement only on the conclusion of departmental/judicial proceedings, if any. The learned counsel for the applicants submits that as on date there is no judicial or departmental proceedings or any proceedings which can be termed as an impediment for release of gratuity and ex-gratia pending against the applicants. He further adds that there is no recovery also to be made from the applicants. He draws attention to office memorandum dated 31.01.2020 signed by Dy. General Manager which on the one hand says there is no disciplinary/vigilance case



pending/contemplated against the official but in the next sentence goes on to say that departmental/judicial proceeding is pending. This further obscures the issue.

2. Learned counsel for the respondent submits that perhaps only some case of civil nature including the present and 4 OA No-764/2000 another OA are pending but in my view, this will certainly be not termed as judicial proceeding in respect of the applicants which should be a bar for release of ex-gratia gratuity and any other dues in accordance with the scheme.

3. It is not in doubt that the applicants had sought voluntary retirement only on the basis of the scheme introduced by the respondent-organisation. Hence, on the assurance that subsequent to opting for the retirement they would be paid all the financial benefits that would have accrued to them. However, on this specious plea that some judicial proceeding in the nature of present and similar OA is being contested between the parties, it is a very illogical to withhold the terminal benefits of the applicants. Learned counsel for the respondent draws support from the judgment of Hon'ble Allahabad High Court in the case of Shiv Gopal & Ors. Vs. State of U.P. & Ors. wherein the Hon'ble Allahabad High Court had held that judicial proceedings includes civil cases. She also relied on a judgment of the Hon'ble Apex Court in Govinda Menon Vs. UOI. Now, while appreciating the context of this judgment it cannot be held that the OA in the Tribunal or even a similar matter between two parties would be of such nature as to support and justify withholding of terminal benefits of an employee who has opted for voluntary



retirement pursuant to a scheme drawn by the department. Moreover, there is nothing on record to show 5 OA No-764/2000 that the judicial proceeding is of such nature as to subject the applicants to some recovery.

4. In view of the above, this OA is disposed of with a direction to the respondent to take a decision on the sanction of release of gratuity and ex-gratia and other admissible terminal benefits if there is no other legal embargo for the same. Needless to say that the authority sanctioning the retiral and other benefits shall exercise due financial diligence and take a decision strictly in accordance with the guidelines and provisions of the voluntary retirement scheme. However, the authority will not take shelter behind clause 7 and this pending OA and other similar OAs which have no bearing on this case shall not be an excuse to deny the legitimate retiral financial claims.

5. The respondents shall take a final decision in the matter within a period of six weeks from the date of receipt of this order. The said decision should be intimated by the respondents through email and other means to the applicant.

6. Pending MA(s) if any, shall also stand disposed of accordingly. There shall be no order as to costs”.

4. It is further submitted by the learned counsels for the respondents that the judgment of this Tribunal dated 12.05.2021 has already been accepted by the respondents and a Policy decision dated 12.07.2021 has been taken by the respondents.

5. In view of the aforesaid, with the consent of the learned counsels for the parties, the



present OA is disposed of in the same terms as passed in the Order dated 12.05.2021 in OA No.764/2020. It is further made clear that the decision of the respondents dated 12.05.2021 shall be applicable in the case of the present applicants also. If required, the respondents may pass necessary order in this regard as expeditiously as possible and in any case within four weeks of receipt of a copy of this Order and the respondents shall give effect to that order positively within four weeks thereafter. There shall be no order as to costs.”

3. In view of the aforesaid, with the consent of the learned counsels for the parties, the present OA is also disposed of in the same terms and with the same directions as in the order dated 05.08.2021 referred to hereinabove. The OA is disposed of in the aforesaid terms. No costs.

(R.N. Singh)
Member (J)

(A. K. Bishnoi)
Member (A)

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