

9

CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

O. A. No. 260/00240/2014

Cuttack this the 14th day of July, 2014

CORAM

THE HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

THE HON'BLE MR. R.C.MISRA, MEMBER (ADMN.)

.....

Balaram Krisani, aged about 40 years, S/o. Late Jagatray Krisani,
Ex-GDS MD/MC, Pondripani BO, Mathili SO, PS/Dist.
Malkangiri.

...Applicant

(Advocates: M/s.D.P.Dhalsamant, N.M.Rout)

VERSUS

Union of India represented through -

1. Its Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist. Khurda-751 001.
3. Postmaster General, Sambalpur Region, Dist. Sambalpur-768 001.
4. Senior Superintendent of Post Offices, Koraput Division, At/Po/Dist.Korasput.
5. Inspector of Posts, Malkangiri Sub Division, At/Po/Dist. Malkangiri.

... Respondents


(Advocate: Mr. U.B.Mohapatra)

Allegat

ORDER**A.K. PATNAIK, MEMBER (JUDICIAL):**

This OA has been filed by the Applicant on 11th April, 2014, inter alia stating that his father while working as GDS MD/MC, Pandripani Branch Post Office died on 13.09.2012 and there being no other members in the family he being the only son and legal heir, the Respondents should have paid all the death cum retirement dues to him but the same has not been paid to him till date despite repeated representations being submitted to the appropriate authority praying for release of all the dues of his father.

2. Copy of this OA has been served on Mr.U. B. Mohapatra, Learned Senior CGSC for the Union of India to appear for the Respondents. Heard Mr.D. P. Dhalsamanta, Learned Counsel appearing for the Applicant and Mr.U.B. Mohapatra, Learned CGSC appearing for the Respondents and perused the pleadings and materials placed in support thereof by the Applicant. Mr.Mohapatra, Learned CGSC appearing for the Respondents objected to the very maintainability of this OA on the ground that as it is the specific case of the applicant that he has made



representations but has not received any reply, thus, it is obvious that the matter is under consideration before the competent authority of the Department and, therefore, this Tribunal lacks jurisdiction to entertain this OA at this stage. This being a matter for release of death retirement dues, the father of the applicant died on 12.10.2012, a representationist has a right to know the fate of the consideration of his representation and that sitting over the representation that too for release of dues as in the instant case does ^{frustrate} ~~foster~~ the cause of justice despite no impugned order. When we express our mind to dispose of this OA with direction to the Respondents to consider the pending representations and if on such consideration it is held that the applicant is entitled to any of the benefits as claimed by him then the same be paid to him without any delay, Mr. Dhalsamanta, Learned Counsel for the Applicant by placing reliance on the decisions of the Bangalore Bench of the Tribunal rendered in the case of **Smt. R. Kalyani Vrs. Deputy Collector, Central Excise (P&E), Bangalore and Another** (1989) 9 ATC 506, Madras Bench of the Tribunal in the case of **N. K. Murthy Vrs UIO and Others** (1989) 10 ATC 631 and



Principal Bench of the Tribunal in the case of **S. A. M. Bilgrami** Vrs **UOI**, (1991) 17 ATC 409 and insisted for issuance of notice.

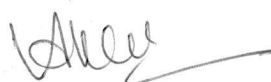
3. We have gone through the decisions referred to above. In the case of N.K.Murthy (supra), we find that being aggrieved for not allowing him to appear at the departmental examination for promotion, he approached the Madras Bench of the Tribunal wherein the Respondents objected to the very maintainability of the OA in absence of any impugned order as provided in Section 19 & 19(1) of the A.T. Act, 1985. The Madras Bench of the Tribunal considering all aspect of the matter held that though there is no specific order challenged by the Applicant, the OA was maintainable. The decision in the case of Smt. R.Kalyani (supra) ^{is} ~~has~~ not at all applicable to the instant OA as this was a case of termination and the question that arises for consideration in the instant OA was not the issue raised therein. Similarly in the case of S.A.M.Bilgrami (supra) the applicant has challenged the action and has prayed for adequate promotional avenues and better pay scale in which Respondents objected to the maintainability of the OA in absence of any specific order being challenged therein. The Tribunal took note of the provision of the A.T. Act and the

Alley

decisions rendered by other Benches of the Tribunal and held that the OA was maintainable even in the absence of any impugned order. ^{A R} In all the above cases relied on by the Learned Counsel for the Applicant relate to the service grievance of the employees whereas in the instant case the applicant claims ^R ~~is~~ for payment of death cum retirement dues of his father and inaction in not considering his representations made to the above extent. Also in the cases relied upon by the applicant therein, the applicants filed the OAs without making any representation and in the instant case the applicant has submitted representation and inaction to give consideration to such representation is one of the grounds raised by the applicant. It is not the case of the Respondents' Counsel that this OA is not maintainable in absence of any impugned order rather it is the case of the Respondents' counsel that when representations are under consideration before the authority, if this OA is admitted then as per the provision of the A.T. Act, 1985 the Respondents will be estopped from further proceeding in the matter, even if it is found that the applicant is entitled to the benefits as claimed by him. Hence the decisions relied on by Mr.Dhalsamanta have no application to the present case.




4. Retirement dues payable to an employee and in the event of his/her death to the legal heirs is not a charity or bounty to be paid on the sweet will of the employer. If it is wrongfully withheld or delayed, owing to the culpable negligence of the employer, the Government would be liable to pay interest for such delay. Therefore, to avoid such extra burden by way of making payment of interest, Government of India, time and again issued instructions for timely payment of the dues. Similarly, in several judicial pronouncements, the Hon'ble Apex Court, Hon'ble High Courts and various Benches of the Tribunal deprecated the action of the authorities in Government in sitting over the representations especially made for release of the above dues. According to the Applicant his father died on 13.09.2012. He intimated such fact to the Respondent No.4 on 12.10.2012 and submitted representations on 27.8.2013, 21.10.2013 and 06.12.2013 praying for release of the death cum retirement dues of his father. If there was any impediment for want of documents or otherwise, it was incumbent upon the Respondent No.4 to intimate the applicant to fulfill the requirements. But sitting over the representations in other words the dues to which he will be entitled to, as per rules does not

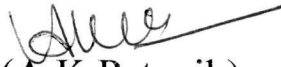


appeal sound to the judicial conscience. Since according to the applicant he has not received any reply and inaction in sitting over the representations is writ large, interference of judicial discretion is called for and according to us ends of justice will be met if this OA is disposed of with direction to the Respondent No.4 to examine the case of the applicant with reference to his representations dated 27.8.2013, 21.10.2013 and 06.12.2013 vis-à-vis the Rules and intimate the result thereof to the applicant within a period of 60(sixty) days from the date of receipt of copy of this order. In the event it is found that the applicant is entitled to the benefits as claimed by him then the same should be paid to him within another period of 60(sixty) days from the date of such order.

No costs.

5. Ordered accordingly.


(R.C.Misra)
Member (Admn.)


(A.K.Patnaik)
Member (Judicial)