

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 92 of 2006

Date of Order: 28 September 2010

C O R A M

**Hon'ble Mr. Justice Anwar Ahmad, Member[Judicial]
Hon'ble Mr. Akhil Kumar Jain, Member[Administrative]**

Sheopujan Singh alias Dr. S.P. Singh, Son of Shri Rameshwar Singh, resident of Chitrakut Nagar, Road No. 3, P.O. Digha, District- Patna – 800012.

..... Applicant.

By : - Applicant-in-person.

-Versus-

1. The Union of India, Ministry of H.R.D. (Department of Education), Shastri Bhawan, New Delhi- 110001. through Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, P.O.- Lohia Nagar, Kankarbagh, Patna- 800020.

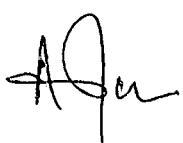
..... Respondents.

By Advocate: - Shri G.K. Agarwal

O R D E R

Per Hon'ble Mr. Akhil Kumar Jain, Member[Administrative]:- This OA has been filed by the applicant seeking reliefs as described in paragraph 8 of the application.

2. At the outset, it was noted that for similar relief, OA No. 8 of 2002 was filed by the same applicant which was disposed of with another OA No. 15 of 2000 vide order 1.09.2004 relating to which CCPA No. 44 of 2005 has already been filed. The learned counsel for the respondents during hearing on 30.03.06 submitted that he might be allowed to file the written statement and at the time of admission, the point of res-judicata may also be considered. This was agreed to by ^{AG}
the Tribunal.



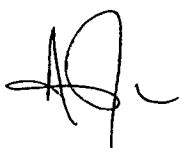
3. Written statement was filed by on behalf of the respondents. The applicant also filed rejoinder and several other supplementary statements later on.

4. In the written statement filed on behalf of the respondents the issue of plural remedies which is not permitted under Rule 10 of the CAT (Procedure) Rules, has also been raised. This issue was also observed by the Tribunal during hearing on 03.05.06 and the applicant was directed to modify the reliefs suitably by filing amendment application by next date. However, the applicant refused to do so and insisted that the reliefs are not hit by Rule 10 of CAT (Procedure) Rules and wanted to argue on this point. Therefore, we first deal with the question of res-judicata and plural remedies in respect of this OA.

5. Heard the applicant who himself argued his case and the learned counsel for the respondents.

6. The applicant submitted that the respondents have not complied with the common order passed by this Tribunal in OA 15 of 2000 and OA 8 of 2002 in respect of arbitrary and illegal deductions made from his retrial benefits. The respondents are misleading the Tribunal by not furnishing correct calculations. Despite the order of the Tribunal, the Commissioner K.V.S., New Delhi refused to hear the case and hence the issue is again being pressed before this Tribunal. As regards plural remedy, the applicant submitted that all the remedies are related to payment of his final retrial dues. Since deductions are being made on account of non settlement of T.A. advances, the remedy of payment of T.A. bills is related to the payment of retrial dues. As regards the calculation and payment of D.A. @ Rs 86/- per day in leave encashment, the same is clearly related to retrial dues.

7. The learned counsel for the respondents submitted that in spite of clarifying the position in respect of the deductions several times, the applicant still insists that he has not been paid his dues illegally. He has filed several OAs and CCPAs essentially on the same issues. The main reliefs sought for in this OA is that he should be paid his retrial dues without making any deductions , payment of



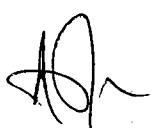
his T.A. bills and payment of double shift allowance. The same issues were raised by him in OA No. 8 of 2002 and OA No.15 of 2000. On an interim order dated 16.11.2000 passed in OA No.15 of 2000 for payment of admitted dues, the applicant filed a CCPA No.57 of 2001. In the show cause reply filed therein, the position regarding deduction was clearly stated and the same was noted by the Tribunal and the CCPA was dropped. This was again considered in OA 15 of 2000 and OA 08 of 2002 and the Tribunal was satisfied that the applicant has already been paid/released almost all the dues for which he was entitled. The applicant was, however, given liberty to agitate the issue before the concerned authorities. Instead of doing the same, he has approached the Tribunal again on the same issues. This, therefore, is clearly hit by res-judicata.

8. As regards plurality of remedies, the learned counsel for the respondents stated that the remedy of payment of retrial dues and the payment of T.A. bills as well as payment of shift allowance are totally different remedies which are not connected with each other. The new remedy added in this OA namely payment of Daily Allowance @ Rs 86/- per day in leave encashment is also a different remedy for which no basis has been indicated in the OA. Thus the OA also suffers from plurality of remedies which is not permissible under Rules of CAT Procedures.

9. From the OA and other written submissions made in this case by both the sides we notice that a series of applications were filed by the applicant which are as follows:-

- (i) OA No. 15 of 2000
- (ii) CCPA No. 57 of 2001
- (iii) OA No. 8 of 2002
- (iv) OA No. 228 of 2005
- (v) CCPA No. 44 of 2005

10. It appears from perusal of application made in OA 15 of 2000 and OA 8 of 2002 that amongst others, the following reliefs were also prayed for:-



O.A. No. 15/2000

1. That the respondents be directed to pay the arrears of retiral dues, namely, Gratuity, Group Insurance Scheme, Balance amount of General provident Fund, Leave Encashment, Pension and other admitted dues, namely – Arrears of salary since 1.7.1995 to 31.10.1995 and 1.1.1996 to 16.01.1996, Arrears of daily allowance during the period of deputation (29.7.95 to 30.09.95 and 26.01.1997 to 31.01.1997), TA and LTC, Arrears of double shift allowance for the period January, 1996 to January, 1997.

OA No. 08/2002

- (i) That the respondents be directed to pay all the retiral and admitted dues without any deduction, that is the amount of Rs. 1,00,364/- withheld by the respondents should be released and paid.
- (ii) That the respondents be directed to pay the TA bills amounting to Rs. 66,358/- withheld by them.
- (iii) That the respondents be directed to pay the double shift allowance which has been wrongly denied by them.
- (iv) That the respondents be directed to add and calculate the Daily Allowance @ Rs. 86/- per day in leave encashment and pay the amount to the applicant.
- (v) That the respondents be directed to pay the difference of amount wrongly calculated by them.
- (vi) That the respondents be also directed to pay the suitable interest with regard to all retiral and admitted dues since the date of their falling due to the date of payment.

11. CCPA No. 57 of 2001 was filed for alleged violation of order dated 16.11.2000 in OA No.15 of 2000 passed on the prayer for interim relief directing the respondents to make payment of all the admitted dues for the period he was in service with the respondents. The contempt proceedings were dropped by the order of the Tribunal dated 4/13.11/2001 which was passed after considering the reply to the show cause notice wherein it was stated that admitted dues to the applicant were Rs 2,63,034.00 out of which outstanding dues required to be recovered from the applicant is Rs 1,07,613.00 and that a balance of Rs 1,55,421.00 has been paid to the applicant.

12. The OA No.15 of 2000 and OA No. 08 of 2002 were disposed of by a common order dated 01.09.2004. In so far as reliefs mentioned above sought in these OAs, the tribunal observed that ,



"after perusal of the copy of the show cause filed by the concerned respondent in CCPA No. 57 /01, vide Annexure-B of OA No. 8 of 2002, it is found that the applicant has already been paid/released almost all the dues for which he was entitled with communication of rejecting his claim for double shift allowance as the same was not found to be permissible under the relevant provision. Therefore, in our opinion, no order is required to be passed in this regard. However, as observed hereinabove, the matter is remitted to the authorities concerned. The applicant can agitate his submissions for left over amount, if any, before the authorities concerned."

13. The reliefs sought in the present OA are as follows:-

1. The respondents be directed to pay all the retrial and admitted dues without any deduction, that is the amount of Rs 1,00,364.00 illegally withheld by the respondents should be released and paid.
2. The respondents be directed to pay the T.A. bills amounting to Rs 70,120.00 illegally withheld by them.
3. The respondents be directed to pay double shift Allowance/Honorarium/remuneration by any nomenclature given by them.
4. The respondents be directed to add, calculate and pay the Daily Allowance @ Rs 86/- per day in leave encashment.
5. The respondents be directed to pay the difference of amount wrongly calculated by them.
6. The respondents be also directed to pay suitable interest with regard to all retrial and admitted dues since the date of their falling due to the date of actual payment.
7. The respondents are directed to provide calculation papers of each amount arrived at for verification of its correctness.

14. From the perusal of these reliefs, it clearly transpires that the reliefs mentioned at Sl 1 to 6 above in this OA are the same as reliefs sought in OA No. 8 of 2002. The issues involved including the deduction of Rs 1,00,364.00 were noted and considered by the Tribunal while passing final order in the CCPA 57 of 2001 and common order in the OA 15 of 2000 and OA 08 of 2002 as quoted above.

15. We further note that the applicant in paragraph 4 of his application has stated, "That this Hon'ble Tribunal passed an order dated 01.09.2004 while hearing OA No. 15/2000 alongwith OA No. 8/2002 that the applicant will agitate the claim to the respondent authorities concerned. The Commissioner K.V.S., New Delhi-16, flatly refused to hear the case, *hence the subject matter involved in OA No.8/2000 have to be pressed before this Hon'ble Tribunal again*". In paragraph



1.1 of the OA, the applicant has submitted, "*under each head a purported illegal lesser calculation has been made and less amount has been paid to the applicant for which OA No. 8/2002 stood.*" In paragraph 9 under the heading 'Interim Order, If Any' it has been stated, " this OA is being filed in lieu of OA No. 8/2001 after refusal of the respondent No.2, the Commissioner KVS to hear the subject matter of OA No.8/2002 as directed by this Hon'ble Tribunal in it's order 01.09.2004." It, therefore, leaves no doubt in our minds that this OA is for the same relief as sought for in the OA No.8 of 2002. The relief sought at sl. 7 above is only for supply of information, which he can otherwise obtain under the RTI Act. As such, this relief cannot be interpreted as new cause of action for filing this OA. As such we are inclined to agree with the respondents that this OA is hit by res-judicata and hence not maintainable.

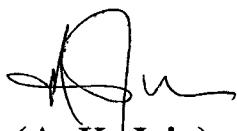
16. As regards plural remedies, we note that T.A. claims of the applicant was decided by the respondents vide order dated 10.01.03 (Annexure R-3 of the W.S.). The claim of double shift allowance which was rejected by the authorities as being not permissible under provisions. The applicant should have filed appropriate representation against these decisions before the authorities. Same should have been done if DA was not fixed correctly. However, since all these remedies were sought in OA No. 08/2002 and the Tribunal after consideration thereof passed orders, we do not consider it appropriate to pass any order on the issue of plural remedies.

17. We are also constrained to point out that though the applicant has claimed that the Commissioner, K.V.S., New Delhi refused to hear the case in pursuance of the order dated 01.09.2004, he has not substantiated the same. In this connection it is noted that the Tribunal remitted the matter to the authorities and the applicant was asked to agitate his submissions for left over amounts, if any, before the concerned authorities. There is no mention in the present OA as to when and in what manner he agitated the issue before the Commissioner, K.V.C. In the



supplementary affidavit filed by the applicant on 23.05.2006, the applicant has annexed as Annexure A-5, copy of a letter purported to be written by him on 18.01.2005 to the Commissioner, K.V.C. giving reference to an office letter no. F6-20/88-KVS (Estt-1) dated 30.12.2004 and some oral submissions, but there is no proof of receipt thereof by the office. Even the copy of the letter quoted under reference has not been annexed. Furthermore, the applicant first submitted the OA on 14.03.05 when it was returned to him for removal of defects. This was within 2 months of the writing the purported letter to the Commissioner, K.V.C. We are, therefore, of the view that the applicant himself did not take appropriate steps to agitate the issue before the concerned authorities and he was more keen to agitate the issue again before this Tribunal rather than pursuing it with the concerned authorities.

18. In result the OA is dismissed on the ground of suffering from res-judicata as no fresh cause of a action has arisen. However, considering the fact that the applicant is a senior citizen and taking a lenient view, we give him liberty to again agitate the issue of alleged wrong deductions made before the appropriate authorities in terms of the common order passed in OA No.15 of 2000 and OA No. 8 of 2002 clearly indicating the deductions being questioned by him and giving reasons thereof within one month from the date of receipt of a certified copy of this order. No order as to costs.



(A. K. Jain)
Member (A)



(Anwar Ahmed)
Member (J)

srk.