

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 539 OF 2005 *March*
 [Patna, this *Thursday*, the 2nd Day of ~~February~~ *March*, 2010]

C O R A M

HON'BLE MR. JUSTICE ANWAR AHMAD, MEMBER [J]

1. Asha Mehta, wife of Late Dhruv Narain Mehta Nirala, [retired Assistant Accounts Officer, Account No. 8302061].
2. Sanjay Kumar, son of Late Dhruv Narain Mehta Nirala, [retired Assistant Accounts Officer, Account No. 8302061].
3. Sharad Kumar, son of Late Dhruv Narain Mehta Nirala, [retired Assistant Accounts Officer, Account No. 8302061].
4. Bandana Kumari, daughter of Late Dhruv Narain Mehta Nirala, [retired Assistant Accounts Officer, Account No. 8302061].
5. Sapna Kumari, daughter of Late Dhruv Narain Mehta Nirala, [retired Assistant Accounts Officer, Account No. 8302061].

.....All at present residing in the house of Shri Suresh Singh [Rly. Guard], K.P.Sarkar Road, Mithapur, P.O- GPO, P.S.: - Jakkanpur, District - Patna and permanent resident of P.O.; Bazidpur, P.S.: Manigachi, District - Darbhanga [Bihar].APPLICANTS.

By Advocate :- Shri Pradeep Kumar.

Vs.

1. The Union of India through the Secretary, Ministry of Defence [Finance], New Delhi.
2. The Financial Advisor [Defence Services], Room No. 140, South Block, New Delhi-110 001.
3. The Controller General of Defence Accounts, West Block - V, R.K.Puram, New Delhi-110 066
4. The Principal Controller of Defence Accounts [Pensions], Allahabad-1.
5. The Controller of Defence Accounts, Udayan Vihar, Narangi, Gawahati-781 171.
6. The Controller of Defence Accounts, Rajendra Path, Path-19.

7. The Deputy Controller of Defence Accounts, Rajendra Path, Patna-19.
8. The Senior Accounts Officer [AN]/Accounts Officer [AN], Office of CDA, Patna, Rajendra Path-19.RESPONDENTS.
By Advocate :- Shri M.D.Dwivedi, ASC.

O R D E R

Justice Anwar Ahmad, M[J] :- This OA has been filed by Dhruv Narain

Mehta Nirala, retired Assistant Accounts Officer, seeking following reliefs :-

“8[i] For a direction to respondents to pay the reduced pension amount of Rs.2484/- plus D.A per month to applicant after the payment of the commutation of pension dues of Rs.1,94,945/- with interest as admissible in law and to pay retirement gratuity/DCRG dues of Rs.1,97,578/- to applicant with interest as admissible in law and accordingly to modify Annexures-15 & 16/1.

[ii] For quashing and to set aside Anneure-12 and the entire departmental proceeding against the applicant.

[iii] For a direction to Respondents to pay the full salary for the suspension period w.e.f. 14.09.1999 to 11.05.2000 to applicant after deducting the amount of subsistence allowance already paid to applicant with interest as admissible in law and accordingly to modify Annexures-7/1, 18, 18/1 and 20/1.”

2. During the pendency of the OA the applicant died and hence his heirs were substituted. Learned counsel for the applicants submits that they press for the following reliefs only :-

[i] Interest on Rs.2,04,056/- [Gratuity amount] w.e.f. 31.01.2002 till the date of actual payment.

[ii] Interest on Rs.37,680/- amounting to the difference of pay and allowances due minus subsistence allowance already paid for suspension period 14.09.1999 to 11.05.2000.

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3.

[iii] Commutation of pension/Capitalised value of pension amount of Rs.1,94,944/- which became absolute w.e.f. 01.02.2002.

During the course of hearing the learned counsel for the applicant did not press relief no.2[ii] & [iii] and confines his argument on payment of interest on the gratuity amount, i.e., relief no.2[i] only.

3. The learned counsel for the applicants submits that the original applicant was subjected to major penalty charge-sheet and after inquiry the President considered his representation and observed that gravity of proven charges cannot be considered to be serious enough to warrant action under Pension Rules against him and observed that taking into account overall facts and circumstances of the case, the President has come to the conclusion that the charges against Shri Dhurv Narain Mehta Nirala, ex-AAO may be laid to rest. The President, therefore, ordered for dropping of the charges vide Annexure-29/1. He submits that pursuant to the order of the President, Deputy CDA [AN], passed the order dated 08.08.2007 vide Annexure-29/1 as under :-

“Therefore, the President has ordered for dropping of the charges against Sh. D.N.Mehta 'Nirala', ex-AAO A/c no. 8302061. Accordingly, Disciplinary proceedings as for major penalty instituted against Sh. D.N.Mehta 'Nirala' stands closed without imposition of any penalty”.

He, therefore, submits that the applicants are entitled to interest on the delayed payment of gratuity from the due date.

4. Learned counsel for the respondents conceded the payment of interest on gratuity and draws my attention to G.I., Dept. of Per. & A.R., O.M.No. F.7(1)-P.U/79, dated the 11th July, 1979 and No.1(4)/Pen. Unit/82,




dated the 10th January, 1983, which reads as under :-

“2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity, if allowed to be drawn by the Competent Authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the Competent Authority”.

The learned counsel further submits that if the payment of gratuity is delayed in such cases interest will be payable from the period of delay beyond three months from the date of issue of the above mentioned orders by the competent authority. He submits that in the instant case the order was passed on 08.08.2007 vide Annexure-29/1, and hence interest on delayed payment of gratuity would be payable after three months, i.e., 08.11.2007.

5. Considering the submissions made on behalf of the learned counsel for the parties, the respondents are directed to pay interest on the delayed payment of the gratuity amount from 08.11.2007 till the date of actual payment at the prevailing rate of interest, within a period of three months from the date of receipt of this order.

5. This OA is accordingly disposed of. No cost.


[Anwar Ahmad]/M[J]

skj.