

20/09/2011

Mr. Man Singh Gupta, Counsel for applicant.
Mr. N.C. Gupta, Counsel for respondents.

Heard.

The O. A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

Somn

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 577/2009

DATE OF ORDER: 20.09.2011

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Chhotu Singh S/o Shri Mangej Singh, retired as LM-II, R/o D-85,
Prem Nagar, Jhotwara, Jaipur.

...Applicant

Mr. Man Singh Gupta, counsel for applicant.

VERSUS

1. Chairman cum Managing Director, Bharat Sanchar Nigam Limited, Statesman House, 12, Khambaji House, New Delhi.
2. General Manager, Telecom District Jhunjhunu, Jhunjhunu.

...Respondents

Mr. N.C. Goyal, counsel for respondents.

ORDER (ORAL)

The applicant has filed the present Original Application praying for the following reliefs: -

"8(a) That by appropriate orders, directions, instructions respondents be directed to allow the applicant following amounts: -

1. Benefit of annual grade increments for the year 1990, 1991, 1992, 1994 to 1997 and for the year 2007.
2. Payment of commutation, gratuity and final pension.
3. Payment of one additional increment in BCR Grade-IV.

(b) That by appropriate orders, directions, instructions respondents be directed to pay interest @ 18% per annum w.e.f. it became due till the payment is made to him.

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- (c) Any other relief which the Hon'ble Tribunal thinks just and proper in the circumstances of the case in favour of the humble applicant may also be allowed.
- (d) Cost of the O.A. be awarded to humble applicant."

2. However, on 23rd February, 2010, while issuing the notice to the respondents, this Bench of the Tribunal passed the following order: -

"23rd February, 2010

OA 577/2009

Present: Shri Man Singh Gupta, counsel for applicant.

Learned counsel for applicant submits that he is not pressing the relief as sought vide para 8 (a) (1) & (3) of the OA and he will confine this OA to relief as claimed vide Para 8 (a) 2. Issue notice to the respondents, returnable within four weeks. In the reply to be filed by the respondents they shall also indicate why the case of the applicant is not covered in terms of the instructions issued by the Govt. of India. Vide letter dated 24.3.2003 Annexure A-4. It is clarified that it will be open for applicant to file separate OA for the relief prayed in Para 8 (A) 1 & 3.

Let the matter be listed before Deputy Registrar (J) for completion of pleading on 22.4.2010."

3. Thus, in view of the above order dated 23rd February, 2010, this Original Application is confined to relief as claimed vide Para 8 (a) 2, which reads as follows: -

"8(a)2. Payment of commutation, gratuity and final pension."

4. I have heard the rival submissions of the learned counsels of the respective parties and carefully perused the pleadings as well as documents on record.

5. It is admitted by both the parties that the applicant retired from service on 30.11.2007 and he is being paid provisional

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pension only. Learned counsels appearing for both the parties admitted that the criminal case pending against the applicant is by a private party.

6. Learned counsel appearing for the applicant drew my attention to a circular dated 24.03.2003 (Annex. A/4), which deals with clarification regarding payment of pensionary benefits to a retiree against whom personal court case (other than department) is pending in the Competent Court. The relevant portion of the circular dated 24.03.2003 is quoted below: -

"The department of Pension & PW (vide their I.D.No. 17729/03-P&PW (F) dated 10.3.2003) have advised that the term judicial proceedings mentioned in Rule 69 of CC (Pension Rules), 1972 is relating to judicial proceedings initiated against a Govt. servant in his official capacity by the Government authorities. The judicial proceedings initiated against the Government servant by a private person / agency will not come the ambit of this Rule. Hence, there is no objection in releasing DCRG and final pension to those Govt. servants against whom judicial proceedings have been initiated by private parties."

7. Learned counsel appearing for the respondents admitted the contents of the said circular dated 24.03.2003 and stated that he has no objection if the applicant is sanctioned pension and gratuity as per the terms of this circular. The only reason for not sanctioning the pension and gratuity is that a criminal case is pending against the applicant, but since both the parties admit that this criminal case is of private nature and it is not filed against the applicant in his official capacity by the Government authorities, therefore, the conditions of circular dated 24.03.2003 (Annexure A/4) would be applicable in the present case.

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8. Accordingly, the applicant is entitled to final pension including commutation and gratuity, and, thus, the respondents are directed to take further necessary action in this regard, expeditiously but in any case not later than three months from the date of receipt of a copy of this order.

9. With these observations and directions, the Original Application stands disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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