

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

17.01.2013

OA No. 657/2012

Mr. Amit Mathur, Counsel for applicant.
Mr. K.S. Sharma, Counsel for respondents.

Heard learned counsel for the parties.

The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 657/2012

Jaipur, the 17th day of January, 2013

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Parmanand Sharma son of Late Shri Laxminarayan Sharma aged about 63 years, resident of 345, Shri Gopal Nagar, Gopalpura Bypass, Jaipur and presently retired CCS Bharat Sanchar Nigam Limited, Jaipur.

... Applicant
(By Advocate : Mr. Amit Mathur)

Versus

1. The Bharat Sanchar Nigam Limited through Managing Director, Barakhamba Road, New Delhi.
2. Principal General Manager, Bharat Sanchar Nigam Limited, Opposite GPO, M.I. Road, Jaipur.
3. Divisional Engineer Phones, Bharat Sanchar Nigam Limited, Durgapura, Jaipur.
4. Sub Divisional Officers Phones 1st, Bharat Sanchar Nigam Limited.

... Respondents
(By Advocate: Mr. K.S. Sharma)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) That the present Original application may kindly be allowed and by way of an appropriate order, directions may be issued to the respondents to give all the terminal benefits to the applicant which includes regular pension, commuted value of pension, DCRG alongwith arrears. The applicant is also entitled for the interest on the delayed period @ 24% per annum.
- (ii) Any other order or direction which deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant.
- (iii) Cost of this Original application also may be awarded in favour of the applicant."

Anil Kumar

2. Learned counsel for the applicant stated that the applicant attained the age of superannuation on 31.08.2009. Before the retirement of the applicant, the disciplinary proceedings were initiated against him. The respondents passed the order of punishment dated 30.04.2011, imposing the penalty of 'Censure' and a recovery of Rs.211.20 from the applicant (Annexure A/2). The Hon'ble High Court vide its order dated 19.07.2012 in DB Civil Writ Petition NO. 11858/2011 [Parmanand Sharma vs. Bharat Sanchar Nigam Ltd. & Others] allowed the prayer of the applicant to withdraw the Writ Petition with liberty to avail appropriate remedy against the order of penalty dated 30.04.2011 in accordance with law.

3. The learned counsel for the applicant further argued that after passing of the order dated 30.04.2011, no departmental inquiry/ departmental proceeding was initiated against the applicant. Therefore, once the inquiry was concluded on 30.04.2011, it was incumbent upon the respondents to release the retirement benefits to the applicant but without any justifiable reasons, the respondents have not released the terminal benefits to the applicant. The applicant was entitled for the terminal benefits as soon as possible after the departmental inquiry was concluded and the order of punishment was passed. Therefore, the respondents be directed to release all the retirement benefits alongwith the interest @ 24% per annum.

Anil Seeman

4. On the other hand, learned counsel for the respondents submitted that in the departmental proceedings against the applicant, punishment order was passed on 30.04.2011 vide which a sum of Rs.211.20 was to be deposited by the applicant alongwith the punishment of 'Censure' but the applicant did not deposit the same till date. Inspite of the liberty been given by the Division Bench of the Rajasthan High Court (Annexure A/3) to avail an appropriate remedy against the penalty order dated 30.04.2011, the applicant has not challenged the punishment order dated 30.04.2011 as yet. He further argued that at the time of retirement of the applicant, the disciplinary proceedings were pending against him, hence retirement benefits could ^{not} be accorded to him at that time. Now the disciplinary proceedings are over and as & when an amount of Rs.211.20 is deposited by the applicant, the due retirement benefits would be released to the applicant.

Anil Kumar

5. Learned counsel for the respondents submitted at Bar that once the applicant deposits Rs.211.20 then he will also be entitled to the benefits of 6th Pay Commissions according to the provisions of law and the punishment of censure would not come in the way of granting the benefit of 6th Pay Commission.

6. Heard the rival submissions of the parties and perused the documents on record. It is not disputed that the applicant was awarded the punishment of censure alongwith deposit of Rs.211.20 vide order dated 30.04.2011. The learned counsel for the applicant argued that this order has been challenged in appeal by the applicant, therefore, the applicant has not deposited

Anil Kumar

Rs.211.20. However, he submitted at Bar that the applicant is now willing to deposit Rs.211.20 under protest that if his punishment is revoked or modified to the extent that he would not be required to deposit Rs.211.20 then this amount would be returned by the respondents. Therefore, he submitted that respondents be directed to release all his retirement benefits as claimed in the OA. Learned counsel for the respondents submitted at Bar that if the applicant deposits the amount of Rs.211.20 even under protest then all the retirement benefits due to him would be released in accordance with the provisions of law.

7. In view of the submissions made by the learned counsel for the parties, the respondents are directed to release all the retirement benefits including the benefit of the 6th Pay Commission to the applicant after the applicant deposits Rs.211.20 even under protest with the respondents. The respondents are expected to release retirement benefits of the applicant, as stated above, expeditiously but not later than a period of three months after the deposit of Rs.211.20 by the applicant with the respondents.

8. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)