

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A NO.060/00244/2014

Date of decision : 23.4.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

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Sudershan Kumar Sharma S/o Late Sh. Balwant Rai Sharma, Assistant Controller (F&A) (Retd.), resident of H.NO.C-182, Gali NO.7, Jujjhar Nagar, V&PO Behlopur Mohali.

...APPLICANT

BY ADVOCATE: Shri J.R. Syal

VERSUS

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi-110 001.
2. Union Territory, Chandigarh through Adviser to the Administrator, Union Territory, Chandigarh.
3. Union Territory, Chandigarh through Finance Secretary, Chandigarh Administration, Chandigarh.
4. Accountant General (A&E), U.T. Chandigarh.

...RESPONDENTS

BY ADVOCATE: Shri K.K. Thakur (R-1-3) & Shri I.S. Sidhu (R-4)

ORDER

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The prayer in this OA is for grant of interest @12% per annum on the ground of delayed pension and pensionary benefits, i.e., DCRG, commuted value of pension, arrears of DCRG, arrears of pension, arrears of commuted value of pension, arrears of pay and also the arrears of leave encashment for the period detailed in Annexure A-16.

2. The facts in short are that the applicant was served with a charge-sheet under Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 on 31.07.2007 for the alleged misconduct for the year 2001-02. The applicant instead of filing reply submitted a request to the respondents for supplying certain documents so that he can file an effective reply on 02.08.2007. Then he made a similar request to respondent no.4 on 05.09.2007. He was supplied with these documents. Thereafter he submitted his reply on 07.03.2008. When the respondents did not proceed in the matter then the applicant approached this Tribunal by filing OA no.275/CH/2010, which was disposed of on 16.04.2010 with a direction to the respondents to complete the departmental proceedings within a period of four months from the date of receipt of a copy of this order. In the meanwhile, applicant retired from service on attaining the age of superannuation on 30.09.2008. Vide order dated 19.11.2010 respondents inflicted a punishment of 5% cut in pension for a period of

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six months and at the end of that the pension was ordered to be restored to the level it was due to him in accordance with rules. Dissatisfied with the order applicant filed statutory appeal, which too, was dismissed vide order dated 27.06.2012. Thereafter the respondents released the admissible amount to the applicant on submission of pension papers. Dissatisfied with the order of the disciplinary authority the applicant approached this Tribunal by filing another OA no.816/PB/2012 seeking quashing of orders of the disciplinary authority dated 18.11.2010 and orders of the appellate authority dated 22.06.2012. The said OA was allowed vide order dated 31.05.2013, where both the orders were quashed. It is the case of the applicant that due to delay in finalization of departmental proceedings on the part of the respondents he cannot be penalized and he becomes entitled for grant of interest from the date when the said amounts become due. Hence the Original Application.

3. The respondents contested the claim of the applicant by filing a detailed written statement wherein they submitted that pursuant to the charge-sheet the respondents conducted the departmental enquiry, which resulted into an order of punishment of 5% cut in pension and accordingly the amounts due to the applicant were made available to him immediately as per his entitlement. The averments to this effect have been made in paragraphs 19 & 20 of the written statement, which read as under:

"That regarding delay in pensionary benefits, it is submitted that the applicant retired from service on 30.09.2008 on

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attaining the age of superannuation. As disciplinary proceedings were pending, 90% provisional pension of Rs.8825/- was sanctioned to him w.e.f. 1.10.2008 vide orders issued on 24.12.2008. Leave encashment of Rs.3,09,250/- was paid to him in December, 2008. His pension papers were received from the Estate Office on 16.07.2008 but were incomplete. After orders of Disciplinary authority imposing 5% cut in pension for six months issued on 20.8.2009, the applicant completed the papers on 30.9.2009 and gave option for commutation of pension on 01.10.2009. Thereafter his case for release of pension, commutation and DCRG was sent to Accountant General (A&E) office on 9.10.2009. Pension and DCRG were authorized by the Accountant General (A&E) office on 30.11.2009. The applicant completed the requisite formalities of submission of photographs and specimen signatures of release of DCRG in this office on 13.01.2010 and the payment was released in the same month.

20. That the delay in release of pensionary benefits was due to pending disciplinary proceedings. 90% provisional pension of Rs.8825/- was sanctioned to him w.e.f. 1.10.2008 vide orders issued on 24.12.2008. Immediately after orders of disciplinary authority dated 20.8.2009 imposing penalty of 5% cut in pension for six months his case for release of

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pensionary benefits was processed. Regular pension was authorized to him on 30.11.2009 and DCRG, commuted value of pension were paid in January, 2010."

4. Therefore, it is submitted that there is no delay on the part of the respondents.

5. The applicant has filed rejoinder wherein he submitted that the respondents cannot withhold the amount of pension and thus he becomes entitled for grant of interest upon that.

6. We have heard learned counsel for the respective parties. Shri Syal, learned counsel appearing on behalf of applicant vehemently argued that once it is established that delay in concluding the departmental proceedings had occurred on the part of the respondents applicant cannot be penalized for that and as such he has become entitled for grant of interest on the delayed payment. He has placed reliance on the following decisions:-

- i) State of Jharkhand and others v. Jitendra Kumar Srivastava and another, 2013 (3) RSJ 601; and
- ii) R.C. Rattan v. UOI & Ors., 2014 (3) RSJ 699 (P&H-DB)

7. Shri K.K. Thakur, learned counsel appearing on behalf of the Administration vehemently opposed the prayer and submitted that on his retirement on 30.09.2009 applicant was released 90% provisional pension w.e.f. 1.10.2008 and he was granted leave encashment in December, 2008 and other benefits were already released well within time and there

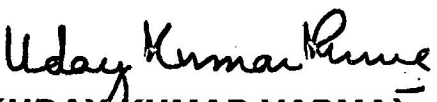
is no delay in releasing of the amounts. He submitted that the applicant is not entitled for grant of interest on the delayed payment.

8. We have given our thoughtful consideration to the entire matter and have perused the entire pleadings on record. The sequence of facts as narrated above does not persuade us to accept the contention at the hands of the applicant for grant of interest on the so-called delay in making the payment. The respondents have given details when the relevant amounts were disbursed to him on his retirement, as reflected in paragraphs 19 and 20 of the written statement.

9. In the light of the above, we find no reason to direct the respondents to grant interest, as claimed in the OA. Accordingly, the OA fails and is dismissed.

10. No costs.


(SANJEEV KAUSHIK)
MEMBER (J)


(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh
Dated: 23.4.2015

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