

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00174/2014

Date of Decision : 13.3.2015

Reserved on: 10.03.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Gian Singh son Sh. Amar Singh, Ex-Conductor No.203, Chandigarh Transport Undertaking, Chandigarh, Resident of H.No.483, Ward No.2, Vishkarma Colony, Balachaur, Village and Post Office Balachaur, District S.B.S. Nagar (Punjab).

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Applicant

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. Home Secretary-cum-Secretary Transport, Union Territory, Chandigarh.
4. Divisional Manager, CTU and Director Transport, Union Territory, Chandigarh.
5. General Manager, Chandigarh Transport Undertaking, Union Territory, Chandigarh.

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Respondents

Present: Mr.J.R. Syal, counsel for the applicant
Mr. Rakesh Verma, counsel for the respondents



ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (iii) the contemplated departmental proceedings, which were initiated in the year 1985, which have not been concluded, till date, may be ordered to be closed by quashing the same.

(iv) the respondents may be directed to release the withheld portion of the pension, to release the pension in full, pay arrears of withheld pension and to release the remaining pensionary benefits, DCRG, Commutation, G.I.C. etc along with interest @ 18% per annum on the withheld pensionary benefits, till the date the same are released to the applicant."

2. Written statement was filed on behalf of the respondents and thereafter affidavit was filed by GM, CTU, dated 29.01.2015 that reads as follows:-

- "1. That Sh. Gian Singh, who was working as a Bus Conductor No.203 in the Chandigarh Transport Undertaking and was retired on 31.05.2011 on attaining the age of superannuation.
2. That the 90% of pension and DCRG of Sh. Gian Singh, Conductor No.203 was released after his retirement and 10% of pension and DCRG payment of the retiree was withheld due to pending departmental enquiry and decision of suspension period involved therein.
3. That the pending departmental enquiry has now been decided by the Competent Authority by deciding the suspension period of Sh. Gian Singh, Conductor No.203 (now retired) from 29.01.1985 to 14.09.1988 limiting to the grant of subsistence allowance only vide order dated 21.01.2015 Endst. Vide No.246/ECC/CTU-I/2015, dated 23.01.2015.
4. That the pension case of Sh. Gian Singh, Conductor No.203 (now retired) is being sent to the Accountant General (A&E),

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U.T., Chandigarh shortly for further approval. The approval of final pension and DCRG from the Accountant General (A&E), U.T., Chandigarh / Delhi will be obtained within three months time."

3. When the matter came up for arguments, learned counsel for the respondents referred to this affidavit dated 29.01.2015. He stated that order regarding treatment of the suspension period of the applicant from 29.01.1985 to 14.09.1988 had been issued on 21.01.2015 and the operative portion of the same read as follows:-

"And whereas, the record of the inquiry file in question in respect of Sh. Gian Singh C. No.203 (Now Retd.) is not traceable as per the report obtained by the Depot concerned from various branches. He remained under suspension w.e.f. 29.01.1985 to 14.09.1988 and the said period has not been decided so far. He was retired from services w.e.f. 31.05.2011 and since then his retiral benefits i.e. pension gratuity, leave encashment benefit etc are held up. "On 24.04.2012 he also submitted an affidavit that no departmental enquiry / court proceeding / criminal case / accident case / police challan / audit para are pending against him, if any previous challan / court case / accident case / criminal case will be found at any stage except above then he shall be liable for the same". He further submitted an affidavit on 26.10.2012 regarding cancellation of FIR lodged against him.

And whereas, in this case all the other co-accused officials had already been awarded minor punishment i.e. by censure of services and their suspension period decided as limited to the subsistence allowances. Sh. Gian Chand, C.No.203 (now retired) was called for personal hearing on 21.03.2013. He was heard in person and directed to produce the documents such as charge sheet, judgment of court and other documents related to the office correspondence but he failed to do so.

And whereas, Sh. Gian Singh, C.No.203 (now retired) has filed an OA No.060/00174/2014 titled "Gian Singh Vs. Union of India & Ors." in which the applicant has requested the Court to

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direct the respondents to release the withheld portion of the pension, including, DCRG, commutation, GIS etc.

Now, keeping in view of the facts and circumstances explained above, as the relevant document / charge sheet and other papers relating to the case are not traceable in the office, the undersigned in exercise of the power conferred under Punjab Civil Service Rules (Punishment and Appeal) Rules, 1970 does hereby order that the suspension period of Sh. Gian Singh, Conductor No.203 (now retired) from 29.01.1985 to 14.09.1988 is limited to the grant of subsistence allowance only."

4. Through this order, the applicant had been allowed subsistence allowance only for the suspension period. He further stated that letter no.1215/Pen/HO/CTU/2015, dated 23.02.2015, had been issued to the Accountant General (A&E) forwarding the case for regular pension and releasing the DCRG and other benefits in respect of the applicant. In view of this position, learned counsel stated that the relief sought by the applicant in the OA had been allowed to him and the same had been rendered infructuous.

5. Sh. J.R. Syal, learned counsel for the applicant contended that the applicant was entitled to full salary for the period that he remained under suspension while as per order dated 23.01.2015, he had only been allowed subsistence allowance for the period 29.01.1985 to 14.09.1988. He further stated that the release of pensionary benefits had been delayed considerably since the applicant had retired from service on 31.05.2011 and it was only in February, 2015 that the case had been sent to the AG

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UT Chandigarh for release of pension and DCRG to the applicant. Hence the applicant was entitled to interest on account of belated payment of retiral benefits.

6. We have given our careful consideration to the matter. From the material on record, it is evident that no penalty has been imposed on the applicant for the alleged wrongdoings on account of which he was under suspension for the period from 29.01.1985 to 14.09.1988. Since no penalty has been imposed on the applicant, there is no ground for the respondents to have restricted payment for this period to the grant of subsistence allowance only. In fact, as per the rules, the applicant is entitled to the period being treated as on duty for all intents and purposes and he is entitled to be released full salary for this period.

7. So far as the issue regarding claim of interest is concerned, it is seen from the affidavit dated 29.01.2015 that 90% of pension and DCRG were released to the applicant after his retirement and only 10% of the same was withheld due to pending departmental enquiry and decision of suspension period. From the perusal of order dated 21.01.2015, it is seen that the matter was closed so far as the applicant was concerned as the inquiry file in respect of the applicant was not traceable. The matter relates to the period 1985 to 1988 and surely departmental proceedings could have been completed while the applicant was in service and decision

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taken regarding treatment of the suspension period. Since the respondents have closed the disciplinary proceedings against the applicant without imposition of any penalty, the claim for interest on belated payment of pensionary benefits is reasonable. Hence, the applicant is held entitled to interest @ 6% per annum on account of delayed payment of pensionary benefits beyond four months of his date of retirement as this much time is considered reasonable for finalizing any claim for pension. The respondents are directed to take action regarding release of the balance salary of the applicant for the period from 29.01.1985 to 14.09.1988 and release of interest due as per this order within a period of three months from the date of receipt of a certified copy of this order being served upon the respondents.

8. With these directions, the OA stands disposed of.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 13.3.2015

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