

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH**

Original Application No.53/2017
Dated the 11th of June, 2018

CORAM :

Hon'ble Sh. Jayesh V. Bhairavia, Member (Judicial)

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Tarachand R. Patel
S/o Shri Rambhai Patel,
Retired Mail Overseer, ASD O/o Valsad,
Aged 68 years, R/o Kanjan Ranchhod, Via Ronvel,
District Valsad-396055.Applicant.
[By Ms. S.S. Chaturvedi]

Vs.

- 1) Union of India notice
Notice to be served through Director General of Posts,
Dak Bahwan, New Delhi – 110 001.
- 2) Sr. Superintendent of Post Office,
Valsad Division
Thithal Cross Road,
Valsad – 396 001.
- 3) Director of Account Officer (Postal)
Department of Postal,
Gujarat Circle, GPO Building,
First Floor, Ahmedabad 0 380 001.
[By Ms. Prachi Upadhyay]

O R D E R (ORAL)

BY THE COURT :

The brief facts giving rise to this O.A. are that applicant was posted as Mail Overseer under the ASD Valsad H.O. During his service tenure, the applicant was identified as a subsidiary offender in mis-appropriation committed by one Shri N.D. Patel, BPM under Valsad Division and, therefore, a Chargesheet dated 19th June,

2011 under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965 was issued to him. During the pendency of the inquiry, the applicant was retired on superannuation w.e.f. 30.06.2011. Due to pendency of disciplinary proceedings, retiral benefits of the applicant were with-held by the respondent – department under the provisions of Rule 69 of the CCS (Pension) Rules and only provisional pension was granted to him.

An inquiry was conducted and the inquiry officer proved the charges levelled against the applicant. The disciplinary authority forwarded the case on 09.01.2015 for advice of the UPSC vide letter dated 09.01.2015. The UPSC had advised that “in light of the observations and findings as discussed above and, after taking into account all other aspects relevant to the case, the Commission consider that the charges are proved against the C.O. (charged official) constitute grave misconduct on his part warranting imposition of penalty of 10% Cut in pension for a period of two years.” Thereafter, in exercise of the powers vested in him under Rule 9 of the CCS (Pension) Rules, 1972 the President had observed vide its order dated 28.07.2015 (Annex.A/3) that, “in exercise of the powers vested in him under Rule 9 of the CCS (Pension) Rules, 1972, the President has ordered that 10% of the monthly pension otherwise admissible to Shri T.R. Patel, the C.O., be withheld for a period of two years. The gratuity admissible to CO, if not required otherwise may be released”.

2. It is further contended that after the issuance of penalty order, the applicant had requested the authorities to release his retiral dues including DCRG but all in vain, therefore, he submitted representations on 06.07.2016 and 06.08.2016 respectively, as stated in Para 4.9, but, the same are not annexed with the O.A. and, even respondents have not replied to para 4.9 of the O.A., regarding non-release of his DCRG, Leave Pay and CGEGIS etc. The learned counsel for applicant submitted that it is an admitted fact that according to the penalty imposed upon him, only 10% of pension amount was required to be recovered and rather there is no order of

with-holding of any amount from his retiral dues. However, for the reasons best known to the respondents, they with-held DCRG and Commutation and said action of the respondent- department is not only contrary to the orders passed by the UPSC and, the President but also is, violative of Articles 14, 16 and 21 of the Constitution of India. It is vehemently submitted that such an action on the part of the respondents is in gross violation of the provisions of CCS (Pension) Rules as well.

3. Per contra, there is no dispute with regard to the Chargesheet issued to the applicant on 19.06.2011 under Rule 14 of the CCS (CCA),Rules, 1965 and during the pendency of the inquiry, the applicant was superannuated on 30-6-2011 and a punishment was awarded to him. The learned standing counsel representing the respondents Ms. Prachi Upadhyay submitted that after conclusion of the case in the light of the rules on the subject, amount of Gratuity i.e. Rs. 1,15,633/- and Commutation of Pension i.e. Rs. 1,93,608/-, was released on 06.03.2017 and 07.03.2017 respectively and at present, no amount is due to applicant towards retiral dues.

4. The respondents have specifically submitted that there was involvement of the applicant in a mis-appropriation and, due to his negligence, the Department suffered a huge loss and, there was at all no delay in release of the retiral benefits, as claimed by the applicant. Only due to administrative reasons, DCRG, Commutation etc. were paid late. The respondents have further add that apparently, the applicant retired during the pendency of disciplinary case, therefore, DCRG and Commutation of pension was initially withheld, but he was granted provisional pension as per Rule 69 of the CCS (Pension) Rules. The learned counsel Ms. Upadhyay therefore argued that grievance of applicant has already been redressed and, he is now not entitled to claim any interest.

5. I have heard the learned counsel for the parties and perused the records of the case.

6. It emerged from the material available on record that the disciplinary proceedings were initiated against the applicant and during the pendency of the said proceedings, applicant was retired on superannuation on 30th June 2011. Due to pendency of disciplinary proceedings, his retiral dues such as DCRG, Commutation of Pension etc. were with held by the respondents. However, as per the provision of Rule 69 of the CCS (Pension) Rules, provisional pension was granted to the applicant. The UPSC had accepted the recommendation of the disciplinary authority vide its advice dated 20.04.2015 whereby, the Commission has observed that the charges are proved against the charged official constituted a grave mis conduct on his part warranting imposition of penalty of 10% cut from his monthly pension for a period of 2 years. It was further observed by the Commission that the amount of Gratuity admissible to the C.O., if not required otherwise, may be released. It is not in dispute that subsequent to the said advice dated 20.04.2015, the respondents had released and paid an amount of Rs. 1,15,633/- towards Gratuity on 06.03.2017 and Rs. 1,93,608/- towards Commutation of Pension only on 07.03.2017. However, in the present O.A., it is the grievance of the applicant that amount of DCRG and Commutation of Pension was wrongly with-held for a long period, though, it was ordered to be released by the competent authority, therefore, the applicant is entitled for interest on the delayed payments.

The respondents had attempted to explain the delay caused in grant / release of applicant's retiral dues on the ground that there was loss of more than Rs. 3,01,153/- to public exchequer, therefore the matter was under examination in the light of rules on the subject and, after conclusion of the case, gratuity and commutation amount was released to him on 6th and 7th March, 2017 respectively. However, it is fairly admitted on behalf of the respondents that there was no order

of competent authority with regard to with-holding of DCRG and value of Commutation.

7. From the foregoing discussions, I find that there is no plausible ground to deny Interest to the applicant on his retiral dues paid belatedly. It is further noticed that the respondents had with-hold the amount of DCRG despite having confirmation from the competent authority to release the same. Under these circumstances, I deem it fit to direct the respondent-department to pay Interest at the prevailing interest rate of GPF to the applicant for the period of delay i.e. from 1st October, 2011 which is three months after the date of retirement, till the date of actual payment of DCRG and Commutation of Pension to him i.e. 06-03-2017 and 07-03-2017 respectively. This exercise should be completed within three months from the date of receipt of a copy of this order.

8. In the light of above discussions, the O.A. is partly accepted. Parties are, therefore, left to bear their own costs.

(Jayesh V. Bhairavia)
Member (J)

