

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.87/2017
in
O.A.No.3006/2013

Order Reserved on: 15.11.2017
Order pronounced on 20.11.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

Smt. Rajkumari Arora
W/o Sh. N.D.Arora
R/o D-29, UGF/RT
Vishwakarma Colony
M.B.Road, New Delhi.

... Petitioner

(By Advocate: Mrs. Priyanka Bhardwaj for Shri M.K.Bhardwaj)

Versus

1. Sh. P.K.Gupta
Commissioner
New Delhi Municipal Corporation
Civic Centre,
New Delhi.
2. Dr. Puneet Kumar Goel
Commissioner
South Delhi Municipal Corporation
Civil Centre, New Delhi.
3. Dr. Arun Kumar Jain
Health Department, Central Zone
South Delhi Municipal Corporation
Central Zone, Lajpat Nagar
New Delhi.

... Respondents

(By Advocate: Shri R.K.Jain)

ORDER

By V. Ajay Kumar, Member (J):

OA No.3006/2013, was disposed of by this Tribunal on 10.08.2016 as under:

“2. This is a very old matter, the applicant is seeking consequential benefits in terms of the orders of Appellate Authority namely, Lt.Governor, Delhi passed on 29.05.2012 and subsequent office order dated 03.07.2012 which reads as under:-

“With reference to the appeal dated 10.03.2006 preferred by Smt. R.K. Arora w/o Shri N.D.Arora, Nursing Sister (Retd.) addressed to Hon’ble Lt.Governor of Delhi against the orders dated 6.9.2004 passed by erstwhile Corporation vide its Resolution No.355 thereby imposing the penalty of 5% cut for three years’ upon Smt. R.K. Arora, Nursing Sister, issued and notified vide office order No.1/306/90/Vig./P/NK/2004/862 dated 9.12.2004, it is informed that Hon’ble Lt. Governor of Delhi in the capacity of Appellate Authority after considering the appeal and all the facts and circumstances of the case has been pleased to allow the appeal and to exonerate Smt. R.K.Arora, Nursing Sister with all consequential benefits vide his orders dated 29.5.2012.”

2. The respondents in their reply affidavit have stated as follows:

“On receiving the above orders the applicant has put up a demand for payment of salary for the period she has not worked along with her promotions, 5th& 6th Pay Commission arrears along with release of 5% cut in pension. Department is ready to release 5% cut in pension but there is no clarity on payment of all salaries, promotion etc. for the period she remained wilfully absent.”

3. In view of clear orders of Appellate Authority and communication of the order dated 03.07.2012, it appears strange that in their reply, the respondents have taken a stand that there is no clarity in the order. As a result, despite order dated 03.07.2012 four years back no decision could be taken by the respondents.

4. In our view in the order of Lt. Governor, there is no ambiguity which have been a communicated by the respondents themselves vide order dated 03.07.2012. The applicant is thus entitled to all consequential benefits i.e. salary from 21.08.1990 till 30.04.2002 (date of retirement),re-fixation of his pension, gratuity etc., payment of GPF with due interest under GPF Rule and other retiral benefits. This shall be done by the respondents within a period of 60 days from the date of receipt of a copy of this order.

5. The OA is accordingly allowed. No costs.”

2. Alleging violation of the aforesaid orders, the applicant filed the present Contempt Petition.

3. The respondents vide their counter affidavit, additional affidavit and the status report(s) submitted that they have filed W.P(C) No.3981/2017 against the aforesaid orders of this Tribunal and the Hon'ble High Court of Delhi vide its Order dated 09.05.2017 (Annexure R1 to the status report), while issuing notices to the applicant ordered that "Till the next date, the petitioners need not pay to the respondents the amount claimed by the respondents in respect of the period during 20.09.1991 to 30.04.2002 during which period the respondents did not render service".

4. It is further submitted that the respondents have made the following payments to the Petitioner:

"a. Gratuity with interest w.e.f. 01.05.2002 to 31.10.2010
[Rs.1,10,521/-+1,19,200/-] Rs.2,30,221/-

Pension arrears w.e.f. 01.05.2002 to 31.10.2010 Rs.5,49,630/-

The recovery made regarding OPR/SLF w.e.f.
21.09.1991 to 30.08.2010. Rs.6,70,766/-

Net amount paid to petitioner on 20.12.2010
[Rs.2,30,221/-+ Rs.5,49,630/-] = Rs.7,79,851/-
[Rs.7,79,851/- - Rs.6,70,766/-] = Rs.1,09,085/-

b. DR arrear w.e.f. 01.05.2002 to 31.03.2017
amounting Rs.2,77,756/- paid on 12.04.2017.

That besides above, the petitioner is getting the pension
amounting Rs.5082/-+DR per month.

That the applicant has further been paid the GPF
Amounting Rs.97,110/- on 10.07.2017.

That the petitioner has been paid all the dues except for the
periods 20.09.1991 to 30.04.2002 and is currently getting the
pension as eligible."

5. Accordingly, the respondents submit that they have complied with the orders of this Tribunal by releasing all the payments to the

applicant except for the period from 20.09.1991 to 30.04.2002, as the payment for the said period was seized by the Hon'ble High Court. It is further submitted that since the matter is seized of by the Hon'ble High Court, the CP may be closed.

6. Heard Mrs. Priyanka Bhardwaj, proxy of Shri M.K.Bhardwaj, the learned counsel for the petitioner and Shri R.K.Jain, the learned counsel for the respondents, and perused the pleadings on record.

7. We find force in the submission made by the respondents. The respondents have released the payments to the applicant except for the period from 20.09.1991 to 30.04.2002, as the payment for the said period was seized by the Hon'ble High Court. The submissions of the learned counsel for the applicant that the calculations done by the respondents are not correct and the same are lacking complete details, cannot be enquired into, at this stage, in this CP, as the matter is seized of by the Hon'ble High Court in WP(C) No.3981/2017.

8. In the circumstances, the CP is closed. Notices are discharged. However the applicant is at liberty to avail his remedy, in accordance with law, once the aforesaid WP is finally decided. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)