

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1292/2014

New Delhi, this the 29th day of August, 2017

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

Shri Bharat Kumar,
S/o Sh. Kishal Lal,
R/o 179, Asha Pushap Vihar,
Kaushambi,
Ghaziabad-201010.

....Applicant

(By Advocate: Shri Ajesh Luthra)

Versus

1. Govt. of NCT of Delhi,
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya,
New Delhi.
2. Chief Electoral Officer,
GNCT of Delhi,
Old St. Stephin's College Building,
Kashmere Gate,
Delhi-110006.
3. The District Election Officer
(New Delhi District),
GNCT of Delhi,
12/1, Jam Nagar House,
Shahjahan Road,
New Delhi-1.
4. The Director,
Directorate of Vigilance,
GNCT of Delhi,
4th Level, C-Wing,
Delhi Sachivalaya,
I.P. Estate,
New Delhi-2.

...Respondents

(By Advocate: Shri B.N.P. Pathak)

ORDER (ORAL)**Mr. V. Ajay Kumar, Member (J)**

The applicant, a retired DASS Grade-I Officer of the respondent No.1, Govt. of NCT of Delhi, has filed the instant OA seeking the following reliefs:-

- “(a) direct the respondents to forthwith release all the terminal benefits of the applicant including pension, commutation of pension, gratuity etc. and leave encashment of the applicant and
- (b) for purposes of computation of the benefits aforesaid, the admissibility of non-functional scale to the applicant be also taken into account and the difference of pay in this regard be also released simultaneously;
- (c) direct the respondents to pay interest @ 15% p.a. to the applicant on all such outstanding amounts which have not been paid to the applicant from the date the amounts become due to the applicant till the time such amounts are actually paid to him including gratuity amount
- (d) award costs of the proceedings and
- (e) pass any other order/direction which this Hon’ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.”

2. It is the case of the applicant that though he retired from service w.e.f. 31.07.2013 on attaining the age of superannuation, the respondents have not released his retirement benefits and also

not granted him the non-functional scale, which was due to him w.e.f. 29.08.2009 on the ground that two FIRs bearing No.341/2008 and No.390/2008 registered against him were pending as on the relevant dates. It is further submitted that both the aforesaid FIRs were finally quashed by the Hon'ble High Court of Allahabad by its even order dated 11.04.2017 in Application No.19257/2016 and No.18782/2016 respectively, and copies of which are produced today.

3. Heard Shri Ajesh Luthra, learned counsel for applicant and Shri B.N.P. Pathak, learned counsel for respondents and perused the pleadings on record.

4. Learned counsel for applicant submits that in view of quashing of the Criminal Cases registered against the applicant, he is entitled for all the retirement benefits including non-functional scale which was also withheld due to the pendency of the said criminal cases, as per the rules. The learned counsel, however, admits that the respondents have released certain retirement benefits of the applicant, as referred to in his rejoinder, however, still the respondents are required to pay some more amounts under various heads, such as commutation of pension and gratuity etc.

5. Shri B.N.P. Pathak, learned counsel for respondents, while reiterating the averments made in the counter, submits that the applicant himself is responsible for non-release of the terminal benefits as several cases were registered and pending against him on the relevant dates and the action of the respondents is perfectly valid and in accordance with law. Learned counsel further submits that provisional pension of applicant has been released and certain other amounts like GPF, leave encashment etc. have also been released, as admitted by him in his rejoinder. Learned counsel further submits that granting of non-functional scale is an independent and distinct cause of action and cannot be clubbed with the release of retirement benefits and the OA is liable to be dismissed on the ground of multiple reliefs.

6. The submission of the learned counsel for respondents that the OA is liable to be dismissed on the ground of multiple reliefs, is unacceptable as the denial of non-functional scale from the due date and the withholding of retirement benefits were both on account of the pendency of the criminal cases only. The respondents further submit that the representation of the applicant in this regard was rejected on the ground that the same may be preferred to the concerned authority as the applicant has not made any representation to the concerned respondent i.e. Secretary,

Department of Services of Govt. of NCT of Delhi after the proceedings in criminal cases registered against him were quashed.

7. In the circumstances and in view of the fact that certain benefits have already been released by the respondents, the OA is disposed of by permitting the applicant to make an appropriate representation giving details of the amounts still payable to him by the Govt. of NCT of Delhi, to the Secretary, Services Department, within one week from the date of receipt of a certified copy of this order and on receipt of such a representation, respondents shall consider the same including grant of non-functional scale with effect from the due date, and pass a reasoned and speaking order in accordance with law, within a period of 60 days therefrom. In the event, the respondents found that certain amounts are payable to the applicant, the same shall be paid to the applicant within 30 days therefrom. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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