

**Central Administrative Tribunal
Principal Bench**

OA No. 1363/2015

New Delhi this the 18th day of July, 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

R.N. Dhawan, Age 78 years,
Post – J.E. (C), Group 'C',
S/o Late Shri Himmat Rai Dhawan,
R/o 3/21, 2nd Floor,
Old Rajinder Nagar,
New Delhi-60

- Applicant

(By Advocate: Mr. Rakesh Kumar Singh)

-Versus-

Delhi Development Authority (DDA)
Through its Vice Chairman,
Vikas Sadan, INA, New Delhi

- Respondent

(By Advocate: Ms. Sriparna Chatterjee)

ORDER (Oral)

The applicant joined the respondent organization – Delhi Development Authority (DDA) as Junior Engineer on 15.07.1981 and retired from the service of DDA on 30.09.1994 on attaining the age of superannuation. Prior to joining DDA, the applicant worked for about 24 years in the Railways Department. His retiral dues could not be settled as the eligibility of his services rendered in the Railways Department with regard to pensionary benefits could not be resolved. Apparently, the view taken by the Railways Department earlier was that the applicant had taken voluntary retirement from the Railways Department before joining DDA, whereas the applicant's contention was that he had joined the DDA on absorption basis and his application was forwarded by the Railways Department through proper channel. The applicant had approached the Hon'ble Delhi High Court with regard to his retiral benefits in the year 1990 itself i.e. about four years prior to his retirement. Finally, on the basis of

order dated 07.02.2006 in WP(C) No. 1023/1990, DDA settled the pensionary benefits of the applicant in regard to the services rendered by the applicant in DDA and consequently, handed over him a cheque of Rs.1,01,918/- on 13.07.2006. The said cheque was not accepted by the applicant purportedly on the ground that he has not been given his full pensionary benefits, taking into consideration the services rendered by him in the Railways Department as well. The applicant agitated for his claim before the Hon'ble High Court once again. His litigation in the Hon'ble High Court ultimately ended on 28.05.2010. The Railways Department, however, vide their letter dated 29.05.2012, informed DDA that "the Railways is ready to pay the pensionary benefits if the DDA take administrative decision regarding counting of past services of Shri Dhawan." The letter further stated that "it (Railways) never denied discharging its liabilities for payment of pensionary benefits at any stage. The Associate Finance of this Ministry is also of the view that the request made by Shri Dhawan for counting his Railway services in DDA for pensionary benefits is an administrative decision to be taken by DDA." The Secretary, Railway Board, vide his letter dated 20.03.2006, had written to the DDA as under:-

"In Accordance with the directions of the Hon'ble High Court of Delhi dated 7.2.2006, in the CW(P) NO. 1023/90, for sanction of pro-rata pensionary and other retirement benefits to Shri R.N. Dhawan S/o Late Shri Himmat Rai Dhawan, ex-employee of Ministry of Railways, Railway Board the voluntary retirement tendered by him w.e.f. 14.7.1983 is hereby treated as 'technical resignation w.e.f. 14.7.1981'. Accordingly, his pension and other terminal benefits for the period 12.11.1956 to 14.7.1981 is to be refixed."

The DDA finally, acting on the inputs received from the Ministry of Railways, vide their letters dated 20.03.2006 and 29.05.2012, considering that the services rendered by the applicant in the

Railways Department was eligible for counting towards his retiral benefits, settled the retiral claims of the applicant on 16.07.2012. However, the financial benefits, flowing from the order dated 16.07.2012, were ultimately released to the applicant as per the details given below:-

- (a) Pension amount from Oct.1994 to July, 2013 – Rs.1021631/-
(paid in three installments, i.e., on 05.09.2013 – Rs.88,3400/-,
on 24.02.2014 – Rs.37,231/- and on 11.08.2014 – 1,01,000/-),
- (b) Gratuity – Rs.9,44,83/- on 12.08.2013,
- (c) Leave Encashment – Rs.45,800/- on 27.08.2013

The applicant has not been paid 1/3rd pension commutation amount, which according to him, comes to Rs.55,000/-.

2. The applicant, in this OA, has prayed for the following reliefs:-

- “(A) Allow this O.A. and grant 12% interest on the retirement dues as belatedly paid by the DDA as pointed out in representation dated 09.10.2014 (Annexure A-24) of the applicant for belated payment respectively on 05.09.2013, 24.02.2014, 11.08.2014 on monthly pension and 12.08.2013 on gratuity and 22.08.2013 on leave encashment w.e.f. 01.10.1994 in the interest of justice and direct the DDA to pay the interest amount in a time bound manner.
- (B) Direct order the DDA to release/pay 12% interest on commutation amount of Rs.55,000/-.
- (C) Pass any such other/further consequential order(s)/direction(s) which this Learned Tribunal deems fit and proper in the facts and circumstances of the present case.”

3. Learned counsel for the applicant submitted that the applicant had no option, except to go to the Hon'ble High Court, as his retiral dues were not being settled by the DDA in terms of his entitlement and that his services rendered in Railways Department was not being accounted for the purpose. He further submitted that the applicant's claim has finally been settled sans 1/3rd pension commutation amount by the DDA on 16.07.2012. He argued that the applicant is

entitled for receiving interest from DDA on the delayed payments for which the DDA is entirely responsible.

4. Mrs. Sumedha Sharma, learned counsel for the respondents, argued that as per the information received from the Railways Department earlier, the applicant had taken voluntary retirement from the Railways Department before joining the DDA and hence, the respondent was fully justified in giving him the retiral benefits, considering the services rendered by him in the DDA, which it did on 19.04.2006 and a cheque amounting to Rs.1,01,918/- was handed over to him personally on 15.07.2006 which the applicant refused to accept. She further submitted that after the receipt of fresh inputs from Ministry of Railways, vide their letters dated 20.03.2006 and 29.05.2012, the respondent revisited the claim of the applicant and finally settled it vide order dated 16.07.2012. Accordingly, the retiral benefits have been released to the applicant. She, however, was not in a position to confirm as to whether the pension commutation amount has been paid to the applicant or not.

5. I have heard the learned counsels for the parties and have perused the pleadings.

6. It is quite apparent from the records that the respondent could not settle the retiral benefits of the applicant due to confusion with regard to technical resignation/voluntary retirement of the applicant from the Railways Department. This confusion culminated into unavoidable litigations. Be that as it may, after the requisite inputs were received from the Railways Department, vide letters dated 20.03.2006 and 29.05.2012, the respondent was able to settle the claims of the applicant to his satisfaction and has also released the arrears on various dates as indicated in paras 4.21 and 4.22 of the OA. The applicant's claim for payment of interest on the delayed

settlement of his retiral dues, therefore, merits consideration. After all, delay has occurred on account of matters not getting sorted out in the Government departments. However, the applicant's action in rejecting the payment made to him through a cheque on 19.04.2006, cannot be countenanced, albeit his grievance is well acknowledged that the amount then paid was not as per his entitlement. The applicant ought to have accepted the amount paid under protest and pursued his claim for the remaining amount.

7. In order to give quietus to this controversy, I consider it appropriate that the applicant be granted interest on the delayed payment. The interest payable, however, would be on the amount, which is the differential of the amount ultimately paid as per the DDA's order dated 16.07.2012 and the amount offered by the DDA to the applicant on 13.07.2006, which the applicant had refused to accept. A direction to the respondent to pay interest @ 8% on the differential amount is considered equitable.

8. As regards the 1/3rd pension commutation amount, the applicant claims that this amount has not been paid by the respondents, so far. This needs to be verified by the respondent and if found to be true, then the principal amount and interest at the same rate is also required to be paid to the applicant.

9. In view of discussions in the foregoing paras, the OA is disposed of with the following directions to the respondent:-

- (a) The respondent shall pay interest @ 8% on the differential of the amounts paid as per their order dated 16.07.2012 (Rs.10,21,631/- towards monthly pension arrears paid in three installments on 05.09.2013, 24.02.2014 and 11.08.2014 + Rs.9,44,83/- towards Gratuity on 12.08.2013 + Rs.45,800/- towards Leave Encashment on 27.08.2013 totaling to

Rs.11,60,911 or say Rs.11.61 lakhs) and that of Rs.1,01,918/-, which was offered to be paid through cheque by respondent on 13.07.2006. The interest on the differential amount, i.e. Rs.11.60,911 – Rs.1,01,918/- = Rs.10.59 lakhs (approx.) shall be payable from 01.10.1994 to 30.06.2012 (17 years & 9 months);

- (b) The respondent shall verify the claim of the applicant for payment of the 1/3rd pension commutation amount and pay the same with interest @ 8% from 13.07.2006 till 30.06.2017; and
- (c) The exercise as ordained above shall be completed within a period of three months from the date of receipt of a copy of this order.

(K.N. Shrivastava)
Member (A)

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