

**CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH**

**M.A. No.1443/2016 In
 C.P. No.369/2015 In
 O.A. No.3109/2014**

New Delhi this the 27th day of April, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
 HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Dr. B.M. Gulati, Ex.D(M) D
 (since deceased) through
 Rajinder Gulati, Son (legal heir). ..Applicant

(Argued by: Mr. B.K. Berara, Advocate)

Versus

Shri Anil Kumar Aggarwal & Another
 (The Director General, ESIC) ..Respondents

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

MA No.1443/2016

The contour of the facts relevant for deciding the instant MA bearing No.1443/2016 is that, initially Dr. B.M. Gulati, Ex-Director (Medical) Delhi (since deceased) had preferred the OA No.3109/2014 claiming the inclusion of Non-Practising Allowance (NPA) in his pensionary benefits. The OA came to be disposed of by means of order dated 11.02.2015 by this Tribunal. The operative part of the said order reads as under:-

“3. In view of the above position, I dispose of this OA with a direction to the respondents to revise the pension and other pensionary benefits of the applicant within two months from the date of receipt of a copy of this order. However, if occurs any further delay on the part of the respondents, they will be liable to pay the interest @ GPF rates for the delay after two months as aforesated.”

2. According to the applicant, the respondents have not complied with the direction contained in the order and filed Contempt Petition (CP) bearing No.369/2015 which was disposed of vide order dated 22.12.2015 by this Tribunal.

3. Now the LRs of original applicant have prayed in the present MA to recall the order dated 22.12.2015 and to revive the CP mainly on the ground the Revised Pension Payment Order (PPO) has not been sent to the Bank by the respondent. The Manager of SBI informed the applicant vide letter dated 05.02.2016 (Annexure MA-5) that the original copy of the PPO has not been received by them till date.

4. It was claimed that in the wake of legal notice, the respondents informed the Chief Manager of the SBI, Najafgarh Road, New Delhi to make the payment immediately and also enclosed a copy of Revised PPO letter dated 25.01.2016 (Annexure MA-6). It was alleged that the SBI has not paid the arrears to the applicant with effect from 01.01.1996 although Original Applicant was entitled to amount of arrears of pension w.e.f. 01.01.1996. It is stated that the Bank has paid the same only w.e.f. 01.01.2006. Thus it is alleged that respondents have no intention to comply with, and intentionally disobeyed the order of this Tribunal. On the basis of the aforesaid grounds, the applicant has sought the revival of CP.

4. After hearing the learned counsel for the applicant and after going through the record with his help, we do not find any merit in the present MA.

5. As is evident from the record that during the course of hearing of CP, the respondents produced a copy of order of Revised PPO dated 21.12.2015, in compliance of the order passed in indicated OA No.3109/2014 by the coordinate bench of this Tribunal. That was the reason, the CP was disposed of by means of following order dated 22.12.2015:-

“Learned counsel for the respondents produced a copy of Revised Pension Payment Order (PPO) dated 21.12.2015 and submitted that in the wake the order passed in OA No. 3109/2014 has been complied with. Learned counsel for the applicant pointed out that the respondents did not issue the revised PPO within two months, thus the applicant is entitled to interest on the enhanced amount. Once the respondents have issued the revised PPO and the counsel for the respondents has stated that the interest due to the applicant would be paid shortly, we find substantive compliance of the order passed in OA No. 3109/2014.

Ergo CP stands disposed of. Notices issued to the respondents are discharged. If the interest is not paid within six weeks, the applicant would be entitled to seek revival of the CP. No costs.”

6. Ex-facie, the argument of learned counsel that since the SBI has not paid the arrears with effect from 01.10.1996 to the applicant, so the CP deserves to be revived is not only devoid of merit but misplaced as well. It is not a matter of dispute that the respondents have already passed a Revised PPO dated 21.12.2015, which in substance, is as under:-

**“Revised Pension Payment Order
 Pensioner/Disburser Portion**

Passport size	Head of Account 2-Administrative to which pension expenses
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Photograph is to be debited C- Other Charges/
Pension Reserved Fund
Actual Payment made during the year

Name DOB _____ & Age	Class of Pen. & the commencement	Personal identification mark if any	Height & Nationality	Residential Address	Amount of monthly basic Pension/Family Pension
Dr. B. M. Gulati Ex- D (M)D 20/01/1930	Supn. Pension 01/02/1988	A black mole in front of the neck.	5'6" Indian	C-1/30, Mianwali Nagar, Pirangarhi, Delhi-41	@ Rs.8261/- w.e.f. 01/01/1996, @ Rs.12392/- w.e.f. 01/04/2004 & @ Rs.26630/- w.e.f. 01/01/2006 (Less pension already paid)

**Employees' State Insurance Scheme
Tilak Vihar, Dispensary Complex New Delhi**

No.A-40/13/112/88-A/Cs IV

Date: 21-12-2015

Sir,

Until further notice and on the expiration of every month be pleased to pay in respect of Dr. B.N. Gulati the sum of Rs. 8261/- (Rs. Eight thousand two hundred sixty one only) w.e.f. 01/01/1996. Rs.12392/- (Rs.Twelve thousand three ninety two only w.e.f. 01/04/2004) & Rs.26630/- (Rs. Twenty six thousand six hundred thirty only) w.e.f. 01/01/2006 (Less Pension already paid) (Less income tax) as above being the amount of pension upon the production of the Pensioner's portion of this order and taking from the claimant a receipt for the amount according to usual form. The payment should commence from 01/01/2006."

7. Meaning thereby, the respondents have already included the amount of arrears w.e.f. 01.01.1996, 01.01.2004 and 01.01.2006 in the Revised PPO and thus complied the order of the Tribunal. The mere fact that the Bank is not making the payment to the LRs on account of some objection, ipso facto, is not a ground much less any cogent ground to revive the CP. Their remedy lies (somewhere else) with the appropriate authority.

8. In the light of the aforesaid reason, as there is no merit, the MA is dismissed.

Needless to mention that the LRs of the deceased Original Applicant, Dr. B.M. Gulati, would be at liberty to file a representation to redress their grievance before the appropriate authority.

(K.N. SHRIVASTAVA)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

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