

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.908/2017

Reserved on 28.08.2017
Pronounced on 31.08.2017

Hon'ble Ms.Praveen Mahajan, Member (A)

Radha Devi, aged about 82 years,
W/o Late Nand Lal, Ex. Head Master,
R/o H.No.P-31-First Floor,
South Ext. Part-II,
New Delhi-110049 ... Applicant

(By Advocate: Mr. R.S.Kaushik)

Versus

1. Municipal Corporation of Delhi,
Through,
Director, Local Bodies,
C-Wing, 9th Level, Delhi Secretariat,
New Delhi-110002 ... Respondents
2. Commissioner,
South Delhi Municipal Corporation,
Dr.S.P.M.Civic Centre, Minto Road,
New Delhi-110002 ... Respondents

(By Advocate: Mr. R.K.Jain)

O R D E R

The present OA has been filed under Section 19 of the
Administrative Tribunals Act, 1985 seeking the following reliefs:

- (i) Direct respondents to pay the interest to the applicant at the rate admissible to GPF from time to time on the delayed payment of gratuity that was payable to the husband of the applicant from 21.8.1992 till final payment thereto is made.
- (ii) Direct the respondents to pay the interest to the applicant at the rate admissible to GPF from time to time on the delayed payment of Family pension available to the applicant w.e.f. 13.8.1994 till final payment is made.

(iii) Direct respondents to furnish the statement of amount stated to have been deposited by the respondents as informed to the applicant vide letter dated 10.11.2016.

(iv) Award cost of litigation.

2. Briefly, the facts of the case are that the husband of the applicant retired on attaining the age of superannuation on 31.08.1992 from the post of Head Master under the respondents department. His gratuity was not released and ultimately he expired on 13.08.1994 without getting his gratuity. The applicant requested the respondent no.2 to release gratuity of her deceased husband with interest. She also claimed interest on delayed payment of arrears of family pension. Since no action was taken on her request, she approached the Hon'ble Public Grievance Commission for redressal of her grievance. On directions from the Hon'ble Commission she was paid a sum of Rs.37950/- towards gratuity of her deceased husband, further stating that earlier the gratuity could not be released due to non submission of No Dues Certificate (NDC) from the Land & Estate Department. The instant OA has been filed in this background, seeking the reliefs quoted above.

3. Rebutting the averments, the respondents, by way of a counter filed on 10.07.2017, have submitted that the contentions of the applicant are not well founded for the reason that she has filed the OA without making any representation to the respondents. It is also contended that the applicant has concealed certain material facts from the Tribunal, namely that her daughter was residing in the quarter allotted to her husband

and the applicant had herself conceded and accepted that gratuity may be withheld till the vacation of the quarter and only pension arrears may be given to her. It is further stated by the respondents that the applicant is not entitled to any interest on family pension since there has been no revision in the same as per 5th and 6th CPC recommendations.

4. The case came up for hearing today and both the counsels were heard for some time.

5. Shri R.S. Kaushik, learned counsel for the applicant submitted that after the death of the husband of the applicant family pension was sanctioned to the applicant but gratuity of her husband was not released. He also stated that even the family pension sanctioned to the applicant on the death of her husband has not been revised in pursuance of the recommendations of 5th and 6th Pay Commissions. He further submitted that full family pension was not paid for one year to the applicant (from August, 2014 to August, 2015). He emphasised that due to this callous attitude of the respondents, the applicant has been put to great financial and mental stress. Ultimately, the applicant requested respondent No. 2 vide her representation dated 10.09.2015 to release, with interest, the gratuity of her deceased husband and delayed payment of arrears of family pension (Annexure A/2) but all in vain. Subsequently, the applicant approached the Hon'ble Public Grievance Commission, New Delhi with her grievance. On the intervention of the Hon'ble Commission, the respondents informed the applicant vide letter dated 30.09.2016 that a sum

of Rs.37950/- towards gratuity of her deceased husband has been released. The applicant was also informed that gratuity of late Shri Nand Lal could not be released earlier due to non submission of NDC from Land & Estate Department. The learned counsel reiterated, as already done in the OA, that the Government accommodation had been handed over by the allottee to the respondents before the date of next allotment made to Smt. Santosh Chug i.e. 17.12.1992. He drew the attention of this Court to the NDC annexed to this effect as Annexure A/3. Drawing the Court's attention to instructions dated 25.08.1994 issued vide OM No.F.7/1/93-P &PW(F), the learned counsel submitted that the said OM specifies clearly that **"where the payment has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits will be paid to the retired/dependants of deceased Government servants"**. The learned counsel further drew the attention of this Court to the judgment of the Hon'ble Supreme Court in **D.S.Nakara and Others Vs. Union of India** (AIR 1983 SC 130) where it has been held that **"pension and gratuity to the government employee are the part of pensionary benefits and are not bounty to be released on the whims and fancies of the Government. It is like a right of property of the Government servant which cannot be denied or released in delay for no cogent reasons"**.

6. Countering the submissions of the learned counsel for the applicant, Shri R.K. Jain, learned counsel for the respondents, stated that the applicant had concealed material facts from the Hon'ble Tribunal while submitting the present OA. In her application to the respondents dated 3.02.1995, she had stated that after the death of her husband on 13.08.1994, her daughter Sangita was residing in the quarter allotted to her husband. She had also stated therein that the amount of gratuity may be withheld till the vacation of the quarter and only pension arrear may be given to her. These facts, he submitted, are available in Annexure R/1. He further stated that there is no revision in the family pension to be paid to the applicant as per recommendations of 5th and 6th Pay Commissions and thus the applicant is not entitled to any interest on the same. The NDC, regarding the quarter, he contended has been issued by the Land & Estate Department on 28.07.2016, and, after completing the formalities and taking necessary approvals, the gratuity and the family pension of the applicant has been revised. He, therefore, argued that the applicant is not entitled for any interest, as is being claimed by her.

7. On going through the facts of the case, I find that in the instant matter, the department has indeed shown its worst face. The applicant's husband expired on 13.08.1994 without getting his gratuity and the department has the audacity to state, (after delaying the payment of rightful dues to the widow of the deceased employee for 23 years) that she is not entitled to any interest on the delayed payment since the amount had been

'rightfully' withheld by them!! It is clear that the NDC was issued only after the intervention of the Hon'ble Public Grievance Commission, New Delhi. It is nothing but a mockery of the system that NDC of an accommodation handed over by the allottee on 16.12.1992 was issued by the Department in 2016 i.e. almost 24 years after the said accommodation had been vacated!! This is indeed a case where the respondents need to take cognizance of the grave delay which has taken place for no fault of the applicant and fix responsibility of those who have delayed the case of the applicant in an obviously inhuman and callous manner.

8. In view of these facts and circumstances of the case, the OA is allowed in as much as I direct the respondents to pay interest to the applicant on the delayed payment of gratuity and delayed payment of family pension at the rate admissible to GPF from time to time from 31.08.1992 and 13.08.1994 respectively that was payable to the husband of the applicant. I also direct the respondents to furnish the applicant the statement of amount stated to have been deposited by them as informed vide letter dated 10.11.2016.

9. The Hon'ble High Court of Allahabad in a similar case in **Sant Lal Vs. The Chief Audit Officer & others**, Writ – A No. - 29542/1997 held as follows:

"22.....Petitioner shall also be entitled to cost, which we quantify to Rs.50,000/-. This amount shall be paid to petitioner by respondents and they are at liberty to recover the said amount from Officer(s) concerned, who are/ is found responsible for such lapse, after making enquiry in accordance with law."

The ratio of the above judgment squarely applies to the present case.

10. I find this to be a fit case where an exemplary cost should be imposed on the respondents. I accordingly impose cost of Rs.50,000/- (Rupees fifty thousand only) on the respondents to be paid to the applicant. This amount shall be paid to petitioner by respondents and they are at liberty to recover the said amount from Officer(s) concerned, who are/ is found responsible for such lapse/laxity, after making enquiry in accordance with law. This hopefully shall act as a deterrent for the respondents not to repeat such instances in future. These directions shall be complied with within a period of two months from the date of receipt of a copy of this order.

(Praveen Mahajan)
Member (A)

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