

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.1099/2014

Friday, this the 15th day of December 2017

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

Dr. Sudhir Kapoor
Ex-Director Professor, LHMC
r/o C-610, Saraswati Vihar
Pitampura, Delhi – 110 034

..Applicant

(Ms. Aakriti Jain, Advocate)

Versus

1. Union of India through its Secretary
Ministry of Health & Family Welfare
CHS Division
Nirman Bhavan, New Delhi
2. Lady Hardinge Medical College & Smt. S K Hospital
Through its Director
C-604 Shaheed Bhagat Singh Road
DIZ Area, New Delhi 110 001
3. The Principal Director
Lady Hardinge Medical College & Smt. S K Hospital
C-604 Shaheed Bhagat Singh Road
DIZ Area, New Delhi 110 001
4. The Deputy Director (Administration)
Lady Hardinge Medical College & Smt. S K Hospital
C-604 Shaheed Bhagat Singh Road
DIZ Area, New Delhi 110 001

..Respondents

(Mr. U Srivastava and Ms. Neelima Rathore, Advocates for respondent No.1
Ms. Aishwarya Dobhal, Advocate for Mr. Hilal Haider, Advocate for
respondent Nos. 2 to 4)

O R D E R (ORAL)

The applicant joined as an Assistant Professor in the Department of Orthopaedics of respondent No.2 on 12.10.1989. He secured his regular promotions as Assistant Professor on 12.10.1991, as Professor on 12.10.1997

and as Director – Professor w.e.f. 29.10.2008. The applicant was posted to Employees' State Insurance Corporation (ESIC), PGIMSR, Basaidarapur on deputation basis and was relieved on 31.10.2007. He joined ESIC as Dean on 01.12.2009. The deputation was initially for a period of one year. During the period of deputation, the applicant was selected as a regular Professor (Orthopaedics) in ESIC and gave his willingness for continuation / absorption in ESIC. Accordingly, the Annexure R-1 letter dated 24.11.2009 was sent by the ESIC to respondent No.1. Since prior notice of three months is required to be given for seeking voluntary retirement from service (VRS), Annexure R-1 letter dated 24.11.2009 stated that this may be treated as a notice from the applicant.

2. The case of the applicant for VRS was processed by respondent No.2 and finally, vide Annexure R-2 Office Order dated 19.02.2011, he was granted voluntary retirement from service. He, however, was directed to submit 'No Dues Certificate' (NDC), so that his case for release of retiral benefits could be processed. Respondent No.2 finally released the retiral benefits of the applicant as per following details:-

- “(i) PPO No.217211300241 dated 11.03.2012 issued on 13.03.2013.
- ii) Cheque No.479352 dated 18.03.2013 of Rs.11,80,376/- of leave encashment.
- iii) Cheque No.47381 dated 21.03.2013 of Rs.9,00,000/- of Gratuity.
- iv) Payment of communication as per PPO of Rs.16,49,425/-
- v) Cheque No.479413 dated 22.03.2013 of Rs.1,43,920- of CGEIS.”

3. The total amount of gratuity payable to the applicant was ₹10,00,000/- but only ₹9,00,000/- was released retaining an amount of ₹1,00,000/- for settling any outstanding dues since the applicant had not submitted NDC at that time.

4. The grievance of the applicant is that the respondents have released his retiral dues after a long delay of about two years and they have still not released the held up gratuity amount of ₹1,00,000/-. The applicant thus claims interest on the delayed release of his retiral benefits as also release of the retained amount of ₹1,00,000/- of his gratuity.

5. Heard learned counsel for the parties and perused the pleadings and documents annexed thereto.

6. It is stated by learned counsel for applicant that the applicant finally submitted the NDC on 16.12.2011. Indisputably a lot of delay has taken place at the end of respondent No.2 in releasing the retiral benefits to the applicant. It is understandable that after the VRS acceptance order dated 19.02.2011 (Annexure R-2) was issued, respondent No.2 needed some reasonable time to process the release of retiral dues of the applicant. Respondent No.2 was also obliged to get necessary documents from the applicant. Normally, the processing of such claims and their final release should be done within a period of three months, but considering the fact that the applicant was on deputation to ESIC, I feel that a reasonable amount for processing such claims could be reckoned as six months. Hence, I am of the view that there has been a delay of about one and half years at the end of respondent No.2 in releasing the retiral dues to the applicant.

For this delay, the applicant deserves to be granted interest at a reasonable rate.

7. In view of the discussions in the foregoing paragraphs, this O.A. is disposed of in the following terms:-

- (i) Respondent No.2 shall pay interest @6% per annum on the total amount of ₹20,25,000/- (details at page 42 of the O.A.) for a period of one and half years.
- (ii) Respondent No.2 shall release the withheld gratuity amount of ₹1,00,000/-. No interest is allowed on it.
- (iii) The financial benefits mentioned at (i) & (ii) supra shall be released to the applicant within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

(K.N. Shrivastava)
Member (A)

December 15, 2017
/sunil/