

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.1777/2014

This the 28th day of July, 2016

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

Smt. Saroj, Age 55 years
W/o late Shri Shrikrishna(Retd.A.R.(Civil)
E-209 Narwana Apartment,
Patparganj,
Delhi-110092. Applicant

(By Advocate: Shri A.K. Singh)

Versus

1. North Delhi Municipal Corporation,
Through the Commissioner,
Dr. S.P.M. Civic Centre, Minto Road
New Delhi-110002.

2. The Deputy Commissioner
North Delhi Municipal Corporation,
16, Rajpura Road
Civil Lines Zone
New Delhi-110054

3. Engineer in-chief,
North Delhi Municipal Corporation,
Dr.S.P.M. Civic Centre, Minto Road,
New Delhi-110002. Respondents

(By Advocate: Shri Satyendra Kumar)

ORDER(ORAL)

The applicant is widow of Shri Shrikrishna who was working as Asstt.Engineer(Civil) in the MCD and retired from service on 30.11.2008. He died on 18.01.2011. The applicant, being legal heir

of her deceased husband, has prayed for releasing of retiral benefits of her late husband to her. The specific relief as prayed for by the applicant read as under:-

“Relief:

- “8.1 To direct the respondents to release my gratuity along with the interest of 18% per annum.*
- 8.2 To direct the respondents to release my arrears of pension along with the D.A. with effect from 01.12.2008 to 17.01.2011.*
- 8.3 To direct the respondents for releasing five increments that has been earned by my late husband.*
- 8.4 To direct the respondents for releasing my family pension along with the D.A. (Dearness Allowance) with effect from 18.1.2011*
- 8.5 Any other or further relief which this Hon’ble Tribunal may deem fit and proper in the case.”*

2. Shri A.K. Singh learned counsel submitted that the deceased husband of the applicant was facing two RDA cases while in service. One case resulted into imposition of penalty of reduction of pay by 5 stages in the time scale for a period till his retirement during which he will not earn any increments as per Annexue R-2 order No.1/428/2006/Vig/P/AM/2007/2777 dated 19.06.2007 passed by the Disciplinary Authority (DA). The said order was appealed before the Appellate Authority (AA). The appeal was rejected. Aggrieved by the orders of DA and AA, the applicant had filed OA-630/2009 which was disposed of vide order dated 04.09.2009 by this Tribunal. The operative part of the Tribunal’s order reads as under:-

"5. At this stage we need not go into other questions because after perusal of impugned orders, we find that both the orders have been passed by the authorities without application of mind as none of the submissions raised by the applicant have been dealt with, therefore, such orders are not sustainable in law. Accordingly, both these orders, as stated above, are quashed and set aside. However, since we have not gone on merits of the case, respondents are given liberty to pass fresh speaking orders after dealing with the contentions raised by the applicant within a reasonable period say 3 months under intimation to the applicant."

3. Learned counsel for the applicant submitted that the respondents never availed the liberty granted to them by the Tribunal in the aforementioned order. He further submitted that the second RDA was closed by the respondents vide Annexure R-7 order No.1/428/2006&3/108/2009/Vig/P/HC/CDC/2011/162 dated 14.02.2011. It was also submitted that since the RDA cases were pending against Sh. Shrikrishna on the date of his retirement on 30.11.2008, he was sanctioned only provisional pension (without DA), leave encashment & Group Insurance Scheme benefits. The other retiral benefits i.e. gratuity was not paid to him.
4. Learned counsel for the applicant vehemently argued that husband of the applicant is no more and thus the applicant, being the legal heir, is entitled to get all the retiral benefits that the respondents have not released so far viz. arrears of pension along with DA, gratuity with applicable interest.

5. Learned counsel for the respondents submitted that gratuity and arrears of pension with DA have been released vide Annexure R-1 order dated 04.06.2014.(page 45 of the paper book).

6. I have carefully gone through the Annexure R-1 order No. NDMC/Civil Line Zone/PA/211 dated 04.06.2014 of MCD by virtue of which purportedly, the arrears of pension with DA and gratuity have been paid. It is seen from the said order that only gratuity amount without interest has been released. The said order is silent on the release of arrears of pension with DA. Thus I conclude that the following dues have not yet been released:

- (i) Arrears of pension with DA from 01.12.2008 to 17.01.2011
(Shrikrishna died on 18.01.2011)
- (ii) Interest on delayed released of gratuity.

7. Learned counsel for the applicant further submitted that impact of Annexure R-2 order dated 19.06.2007 of the Disciplinary Authority by virtue of which late Sh. Shrikrishna's pay was reduced by 5 stages has not been undone by the respondents following the Tribunal's order dated 04.09.2009 in OA-630/2009. He said that the reduction affected in the salary of late Shrikrishna by the order of DA, is required to be restored and the consequential financial benefits are required to be released to the applicant being legal heir of late Sh. Shrikrishna.

8. After going through the records and carefully considering the pleadings, I am of the view that the applicant is entitled to receive the following dues on behalf of her deceased husband:

- (i) Arrears of pension with applicable DA for the period from 01.12.2008 to 17.01.2011
- (ii) Interest on the gratuity @ rate of 9% .
- (iii) Release of arrears of pay of late Sh.Shrikrishna in view of the order of the Tribunal in OA-630/2009 dated 04.09.2009 whereby penalty order passed by the Disciplinary Authority has been quashed and set aside.
- (iv) Arrears of family pension with applicable DA from 18.01.2011 till the grant of family pension vide order No. NDMC/Civil Line Zone/PA/211,dated 04.06.2014 (page 45 of the paper book)

9. This shall be done by the respondents within a period of three months from the date of receipt of a certified copy of this order.

10. The OA is allowed. No costs.

**(K.N. Shrivastava)
Member(A)**

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