

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A. No.1909/2015

Friday, this the 9<sup>th</sup> day of March 2018

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

Dr. Ashok K Bangotra  
s/o Sh. D R Bangotra  
Post Consultant Physician – Retired  
r/o G-7/23, Sector 11  
Rohini, Delhi – 110 085

..Applicant

(Dr. K S Chauhan and Mr. Murari Lal, Advocates)

Versus

1. Union of India through its Secretary  
Ministry of health & Family Welfare  
Nirman Bhawan, New Delhi – 110 011
2. Govt. of NCT of Delhi  
Through its Chief Secretary  
Delhi Secretariat,  
New Delhi – 2
3. Govt. of NCT of Delhi  
Through its Secretary  
Department of Health & Family Welfare  
Delhi Secretariat, New Delhi – 110 002

..Respondents

(Dr. K S Chauhan, Mr. Ajit Kumar Ekka, Mr. Murari Lal, Mr. RSM Kalky  
and Mr. Ravi Prakash, Advocates)

## **O R D E R (ORAL)**

The controversy involved in the instant O.A. lies in a very narrow compass. The applicant was working as a Medical Superintendent at Dr. Baba Saheb Ambedkar Hospital, Rohini, Delhi from 2004 to 2010. He retired from service on 31.01.2014. A theft occurred in the surgical store of the hospital on 29.09.2009, in which about ₹70 lacs worth goods were stolen. As a consequence of that, the applicant was placed under suspension

vide Annexure A-13 order dated 07.10.2009 passed by the Principal Secretary (Health & Family Welfare), Govt. of NCT of Delhi, which was confirmed by his appointing / disciplinary authority, i.e., President of India vide letter dated 23.11.2009. This confirmation was necessary since the applicant belongs to Central Health Service (CHS). He was subsequently reinstated in service vide Annexure A-14 order dated 22.03.2010 by the President of India. On his retirement, the applicant was paid GPF and leave encashment but not the gratuity, commutation of pension and salary of 89 days, i.e., the period of suspension. Through the medium of this O.A., the applicant has prayed for the following reliefs:-

“(a) Summon the records of the case.

(b) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ, directing the official respondents to disburse the full pensionary benefits along with gratuity etc. etc. with all consequential benefits along with interest @ 18% from date of retirement (31.01.2014) till the date of actual disbursement of the benefits by the official respondents and with costs, in the interest of justice and in the facts and circumstances of the present case; and

(c) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ, directing the official respondents to grant the benefit of communication of the pension to the humble applicant, as per the CCS (Pension) Rules, in the interest of justice and in the facts and circumstances of the present case; and justice and in the facts and circumstances of the present case; and

(d) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ/direction for payment of half salary for the period of 89 days with all consequential benefits, with the interest @ 18% w.e.f. 04.01.2010 at the date of realisation, in the interest of justice and in the facts and circumstances of the present case; and”

2. Pursuant to the notices issued, the respondents have filed the counter reply. In paragraph 5.1 of the reply, it is stated that the Department of Health & Family Welfare is trying its best to decide the matter of

regularization of suspension period of the applicant, so that his pensionary benefits may be released, without any further delay. It is further stated therein that the recommendation to that effect was sent to the Lt. Governor, Delhi for treating the suspension period as 'spent on duty' and the same may be regularized, but the proposal has been returned by the Lt. Governor seeking some clarification vide Note dated 21.09.2016 (Annexure A-1 – p.112). Thereafter, the matter has been under examination at various levels of Govt. of NCT of Delhi and no final decision has yet been taken.

3. Ms. Sangeeta Tomar, learned counsel for respondents has brought to my notice the letter dated 08.03.2018 of Assistant Director (Vigilance), Govt. of NCT of Delhi addressed to the Principal Secretary, Health & Family Welfare Department, stating, *inter alia*, as under:-

“In this regard, I am directed to inform that the proposal of the H&FW Department, GNCTD for getting relaxation from MHA, GOI, in terms of rule 88 of the CCS (Pension) Rules, 1972 for initiation of disciplinary proceedings against Dr. A K Bangotra, is under consideration. The final decision will be conveyed to the H&FW Department, GNCTD as and when received in this Directorate.”

4. Learned counsel for applicant brought to my notice Annexure A-16 letter 25.03.2011 issued from the office of Assistant Commissioner of Police, Crime Branch, Chanakyapuri, New Delhi and addressed to the Medical Superintendent, Dr. Baba Saheb Ambedkar Hospital, Delhi, informing therein that all the six accused persons involved in the theft case have since been identified and are being subjected to criminal prosecution. The letter mentions very clearly that except the above mentioned accused persons neither any doctor/officer nor any employee of the hospital was found involved in the commission of crime in the said case. From the letter

of Delhi Police as well as from the recommendations by the Department of Health & Family Welfare, Govt. of NCT of Delhi, it is quite clear that the applicant was, in no way, involved in the theft case. Furthermore, the respondents, in their reply to an RTI query of the applicant, vide communication dated 19.09.2016, *qua* the applicant, have informed as under:-

- “3. No charge Sheet issued on the date of retirement as per record.
- 4. No inquiry conducted on the date of retirement as per record.
- 5. As per record no criminal case is pending against Dr. Ashok Kumar Bangotra.
- 6. No. The provisional pension was released as per rule.
- 7. Only provisional pension released because Vigilance Clearance has not been received from Dte. of Vigilance till date. Gratuity and Pay of Suspension period is also pending.”

5. In view of the above, it is quite clear that the applicant was not under cloud of any disciplinary inquiry proceedings or vigilance on the day of his retirement. In this regard, the judgment of Hon’ble Supreme Court in the case of **Union of India etc. etc. v. K.V. Jankiraman etc. etc.**, (1991) 4 SCC 109 is referred to. Consequently, the applicant was entitled for getting his full regular pension and other retiral benefits on the day of his retirement itself.

6. Be that as it may, the applicant has been paid only leave encashment and GPF after his retirement. Two major components of retirement, namely, gratuity and commutation of pension, have not been paid. The applicant has also not been paid the differential of his fully salary and subsistence allowance for the period of suspension.

7. In the conspectus of discussions in the pre-paragraphs, and taking into consideration the documents on record, as well as pleadings of the parties, I dispose of this O.A. in the following terms:-

***(i) The applicant shall be paid differential of full salary and the subsistence allowance for the suspension period, i.e., 07.10.2009 to 04.01.2010 (89 days).***

***(ii) The applicant shall be sanctioned regular pension.***

***(iii) The gratuity and commutation of pension shall also be released to him***

***(iv) The applicant shall be paid interest @ 8% per annum on the delayed release of gratuity and commutation of pension.***

***(iv) All the benefits mentioned at (i) to (iv) above, 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)**

**March 9, 2018**  
/sunil/