

Central Administrative Tribunal
Principal Bench

OA No.2902/2015

Reserved on: 16.03.2017
Pronounced on: 20.03.2017

Hon'ble Mrs. Jasmine Ahmed, Member (J)

R.K. Anand, Employment Officer (Retd.)
Aged 71 years,
S/o late Shri S.L. Anand,
R/o 43/20, East Patel Nagar,
New Delhi – 08. ...Applicant

(By Advocate: Sh. Pradeep Ch. Mishra)

Versus

1. Chief Secretary,
Govt. of NCT of Delhi
5th Level, Delhi Secretariat,
IP Estate, New Delhi.
2. Director Employment,
Govt. of NCT of Delhi,
IARI Complex, Pusa, Delhi.
3. Pay & Accounts Officer,
No.XIII, Govt. of NCT of Delhi,
Delhi Fire Station Building,
Shanker Road,
New Delhi-110 060.
4. Central Pay & Accounts Officers (Pension)
Govt. of India, Bhikaji Cama Place,
R.K. Puram, New Delhi. ...Respondents

(By Advocate: Sh. Anil Singal & Ms. P.K. Gupta)

O R D E R

The applicant, who is in the third round of litigation, has filed the instant Original Application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief(s):-

- “i) *Direct the respondents to sanction interest at 18% per annum on leave encashment, commutation and gratuity w.e.f. 01.12.2004 till February, 2015.*
- ii) *direct the respondent to release his pension which was illegally not paid so far from February 2015 till date.*
- iii) *or any other order or directions as deemed fit in the facts and circumstances of the case may be passed.”*

2. The brief factual matrix of the case, as stated by the applicant, is that the applicant, who initially joined the respondent department on 19.11.1969 as Grade-II of DASS cadre, was promoted as Grade-I Public Superintendent in the year 1987 and thereafter promoted to DANICS on *ad hoc* basis in the year 1994. Lastly, he was posted as Employment Officer in 2000 in the Directorate Employment and continued to be there till the date of his superannuation i.e. 30.11.2004. It is the contention of the counsel for the applicant that the respondents with *mala fide* intention issued a chargesheet to the applicant on the date of his superannuation i.e. 30.11.2004.

3. Aggrieved, the applicant approached this Tribunal by filing OA No 1986/2008, which was allowed vide order dated 31.07.2009, operative portion whereof reads as under:-

“14. Resultantly, for the foregoing reasons, this OA is allowed. Impugned chargesheet as well as consequent proceedings are set aside. Respondents

are directed to release the withheld retiral dues to applicant with simple interest @ 9% p.a. from the date it is due till actually paid, within a period of two months from the date of receipt of a copy of this order.”

4. Counsel for the applicant further states that the aforesaid order of the Tribunal was challenged by the respondents before the Hon'ble High Court of Delhi wherein the Tribunal's order dated 31.07.2008 was quashed and the matter was remitted back to the department to conclude the enquiry proceedings. Pursuant thereto, the respondents vide letter dated 25.08.2014 dropped all the charges leveled against the applicant, relevant portion whereof is extracted hereunder:-

“7. Now, therefore, the President, after considering the facts and circumstances on records in respect of this case, has decided by virtue of power vested under Rule 9 of the CCS (Pension) Rules, 1972 to drop the case against Shri R.K. Anand, Entry Grade Officer of DANICS (Retd.) and ordered accordingly.”

5. Counsel for the applicant states that despite the above order, when the respondents did not release the applicant's retiral dues, the applicant filed yet another OA No.3226/2013 before this Tribunal which was disposed of vide order dated 27.10.2014 with a direction to the respondents to take decision in respect of payment of all retiral dues of the applicant, such as, leave encashment, regular pension, commutation and gratuity etc. within

three months from the date of receipt of certified copy of that order. It was also mentioned in the said order of the Tribunal that if any legal impediment is found in finalizing and in payment thereof, the respondents would pass a speaking order spelling out the reasons and communicate the same to the applicant within the aforesaid period of three months.

6. Counsel for the applicant states that after the Tribunal's order dated 27.10.2014 passed in OA No.3226/2013, the respondents sanctioned leave encashment of Rs.1,83,830/- vide order dated 27.01.2015; gratuity of Rs. 3,03,320/- with interest component of Rs.2,48,976/- vide order dated 16.06.2015 and commutation of pension of Rs.2,52,410 vide order dated 19.02.2015. It is seen from the above that except for the gratuity amount, the applicant was not granted interest on leave encashment and commutation of pension for which he was entitled to. Counsel for the applicant also states that the interest paid on the gratuity amount is also on lesser side. He further states that the respondents are unnecessarily delaying the payment of interest to the applicant on leave encashment and commutation amount and also the difference of the interest already paid on the gratuity as the applicant was entitled for the interest to be

paid @ 18% per annum. Counsel for the applicant also submitted that had the applicant been paid all his retiral dues in time, he would have been benefitted much monetarily. Counsel for the applicant also states that since the delay is not on part of the applicant, he is entitled for the interest @ 18% per annum on all the retiral dues. In this regard, the counsel for the applicant has placed reliance on the decisions of the Tribunal wherein 12% interest has been allowed to be paid to the applicants therein on the delayed payment of retiral dues, which are as under:-

- i) *K.C. Uttreja vs. The State Government of NCT of Delhi* [OA No.1709/2007 decided on 21.02.2008];
- ii) *Manju Karmeshu vs. Lt. Governor, Govt. of NCT of Delhi & Ors.* [OA No.4316/2011 decided on 01.07.2013]

7. Counsel for the applicant also relied on the decision of the Hon'ble Apex Court in case of *Vijay L. Mehrotra vs. State of Uttar Pradesh* [JT 2000 (5) SC 171] wherein the Hon'ble Supreme Court has allowed 18% interest to the petitioner on the delayed payment of all his retiral dues with effect from the date of retirement till the date of actual payment. Hence, counsel for the applicant vehemently argues that on the same footing, the applicant is also

entitled to interest @ 18% per annum on leave encashment and commutation amount as also the difference of interest paid on gratuity after calculating the same @ 18% p.a.

8. Per contra, learned counsel representing the respondents states that whatever delay is caused in this case is not attributable to the respondents. It is the case of the respondents that the Hon'ble High Court of Delhi, after quashing the Tribunal's order dated 31.07.2008 passed in OA No.1986/2008, allowed the enquiry to proceed and dropping of charges against the applicant came to be dropped only on 25.08.2014. In these circumstances, it is amply clear that the delay is not on part of the respondents and the applicant is, thus, not entitled to receive interest, as claimed by him.

9. The chargesheet was quashed in 2009 and thereafter on remittance of the matter to the Department, the charges were dropped. This establishes that the chargesheet initiated was contrary to law. The disciplinary authority i.e. the President of India also dropped the charges. This clean chit is to relate back and since the delay in disbursal of retiral dues is not attributable to any fault of the applicant, it entails interest under CCS (Pension) Rules, 1972.

9. Counsel for the respondents alleges that the applicant has not exhausted the remedies, which, in my considered opinion, does not hold good as the applicant has been knocking the doors of various legal Fora since 2008 for redressal of his grievances.

10. Heard rival contentions of the parties, perused the pleadings and documents placed on records as well as judgments relied upon by the counsel for the applicant.

11. In the facts and circumstances of the case, I am fully convinced that the case of the applicant is completely and squarely covered by the decision of the Hon'ble Apex Court in *Vijay L. Mehrotra vs. State of Uttar Pradesh* (supra) wherein the Hon'ble Court has categorically allowed interest @ 18% per annum taking into account that the benefits which were due to the petitioner were paid to him long after his retirement. The case of the applicant is also covered by the Tribunal's orders passed in *K.C. Uttreja vs. The State Government of NCT of Delhi* (supra) and *Manju Karmeshu vs. Lt. Governor, Govt. of NCT of Delhi & Ors.* (supra) where in both the cases interest of 12% has been allowed to the applicants therein.

12. In view of the above discussions and in view of the ratio laid down by the Hon'ble Supreme Court in *Vijay L.*

Mehrotra vs. State of Uttar Pradesh (supra) and of the decisions of the Tribunal in two OAs, referred to above, I am of the considered opinion that the ends of justice would be met if the instant Original Application is allowed. Hence, I allow the instant OA with a direction to the respondents to pay the interest to the applicant @ 12% per annum on leave encashment and commutation amount from the date it was due till the date actual payment is made to the applicant. The respondents are further directed to calculate the interest on gratuity amount @ 12% per annum and pay the difference of interest on gratuity to the applicant.

13. The exercise, as ordained above, be completed within a period of three months from the date of receipt of certified copy of this order.

(Jasmine Ahmed)
Member (J)

/Ahuja/