

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.3714/2014

Order reserved on 18th October 2016

Order pronounced on 16th November 2016

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

Lungi Singh, 63 years (Retired)
s/o late Mr. Avtar Singh
r/o House No.4624
Gali No.112, Sant Nagar,
Burari, New Delhi-84

..Applicant

(Mr. B L Wanchoo, Advocate)

Versus

1. Govt. of NCTD through
Chief Secretary
Delhi Secretariat
IP Estate, New Delhi-2
2. Chief Engineer
PWD, Electric Division
11th Floor, MSO Building
ITO, New Delhi-2
3. Executive Engineer
PWD, Electric Division
Maint Div., M-153
11th Floor, MSO Building
ITO, New Delhi-2

..Respondents

(Mrs. Rashmi Chopra, Advocate)

O R D E R

The applicant has filed the instant O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following specific relief:

“(i) To allow the OA and direct the Respondent No.3 to pay the Applicant penal interest @ 18% to all the delayed payments of Gratuity, Pension, Commutation, Leave Encashment and CGEIS.”

2. The brief facts of the case are as under:

2.1 The applicant joined the Public Works Department (PWD) of Govt. of NCT of Delhi on 11.11.1972 as a Khallasi. He was issued a show cause notice (SCN) for the charge of bigamy. The SCN sought his explanation as to how he could marry with Mrs. Laxmi Devi when his earlier wife, Mrs. Kamla Devi was still alive. The applicant was to retire from service on 31.05.2010.

2.2 The disciplinary enquiry (DE) proceedings under Rule 14 of CCS (CCA) Rules, 1965 were started against the applicant by the disciplinary authority (DA). The inquiry officer (IO) was appointed, who completed his inquiry and submitted the report on 27.12.2010 but the DA did not pass the final order.

2.3 The applicant approached this Tribunal in O.A. No.956/2011 in the matter of DE proceedings, which was disposed of by the Tribunal on 10.03.2011 directing the respondents to dispose of the pending representation of the applicant. As the said order of the Tribunal was not implemented by the respondents, the applicant preferred to file a fresh O.A. No.3032/2011, which was disposed of on 21.02.2012 directing the respondents to pass a final order in the matter of the DE proceedings within two months, in view of the fact that the IO already having submitted his report. As the said order of the Tribunal was not implemented, the applicant filed C.P. No.550/2012 in O.A. No.3032/2011 in which the Tribunal passed an interlocutory order on 18.09.2012 directing the DA (respondent No.3) to implement the order of the Tribunal or else remain present before the Tribunal on the next date of hearing.

2.4 Pursuant to the direction of the Tribunal in the C.P., the DA vide Annexure A-4 (colly.) order dated 30.10.2012 withdrew the charge against the applicant and dropped the DE proceedings. The applicant was also given his retiral dues on the same day.

2.5 The DA also passed a detailed and speaking order on 16.09.2014 (Annexure A-1) declining payment of interest on the delayed release of the retiral benefits to the applicant quoting the provisions of Rule 68 of CCS (Pension) Rules, 1972 read with Govt. of India decisions in the matter.

3. This case was earlier dismissed by the Tribunal vide order dated 31.07.2015. However, the applicant filed R.A. No.255/2015, which was allowed by the Tribunal vide order dated 22.07.2016.

4. The applicant's contention in the O.A. is that his retiral benefits, which ought to have been released to him on 31.05.2010 (date of his superannuation), but for the reasons entirely attributable to the respondents, the said benefits were released to him on 30.10.2012 and for this delay, the applicant is eligible for getting interest on the retiral dues.

5. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant thereafter filed his rejoinder. With the completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 18.10.2016. Mr. B.L. Wanchoo, learned counsel for applicant and Mrs. Rashmi Chopra, learned counsel for respondents were heard.

6. Learned counsel for applicant, besides giving the chronological details of the case and mentioning the grounds raised in the O.A., also placed reliance on the following judgments:-

Decisions of Tribunal:

(i) **Ashok Kumar v. Union of India & another** (O.A. No.2297/2011 with connected cases) decided on 06.07.2012.

(ii) **Nand Lal Singh v. Govt. of NCT of Delhi & another** (O.A. No.2629/2011) decided on 24.11.2011.

Decisions of Supreme Court:

(iii) **D.S. Nakara & others v. Union of India**, AIR 1983 SC 130,

(iv) **State of Kerala v. M. Padmanabham Nair**, 1985 AIR 356.

(v) **S. K. Dua v. State of Haryana & others**, JT 2008 (1) SC 331.

7. Mr. B.L. Wanchoo, learned counsel concluded his arguments by stating that in light of the respondents having withdrawn the charge and closed the DE proceedings, the applicant is entitled for payment of interest on the delayed release of his retiral benefits.

8. Mrs. Rashmi Chopra, learned counsel for respondents stated that the charge of bigamy against the applicant was not dropped simpliciter but was dropped on technical grounds. It was also submitted that the case of the applicant and that of Nand Lal (supra) cannot be compared. In the case of Nand Lal (supra), no enquiry was pending; the penalty order had already been passed by the competent authority, which was quashed by the Tribunal, and based on the Tribunal's order, the retiral benefits were

released to him. She stated that in the instant case, the retiral benefits could not be released to the applicant, as the DE proceedings were pending against him. She also said that in terms of Rule 68 of CCS (Pension) Rules, the applicant is not entitled for any interest payment, which has also been clarified in the decisions of the Govt. of India in relation to the said rule.

9. I have considered the arguments of learned counsel for parties and have also perused the pleadings and documents annexed thereto. Admittedly, the charge of bigamy against the applicant has been withdrawn by the respondents and consequently he has been paid all his retiral dues on 30.10.2012. Issuing of SCN, appointment of IO and conduct of enquiry are all actions attributable to the respondents. No punishment order was ever passed against the applicant by the respondents. But for the judicial intervention of this Tribunal, as elaborated in paragraph 2 above, the respondents would not have taken a decision in the matter expeditiously, nor would have released the retiral benefits. Be that as it may, the applicant has been paid all his retiral dues on 30.10.2012 and the charge of bigamy has been withdrawn by the respondents against him. Thus, it can be concluded that the delay in the release of retiral dues of the applicant are entirely attributable to the respondents. Such delay has caused pecuniary loss to the applicant, for which he deserves to be compensated.

10. In this view of the matter, I dispose of the O.A. with the following directions to the respondents:-

The respondents shall pay interest @ 9% per annum to the applicant on his retiral dues from 01.06.2010 to 30.10.2012, within a period of eight weeks from the date of receipt of a copy of this order.

No order as to costs.

(K.N. Shrivastava)
Member (A)

/sunil/