

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.3747 of 2012

Order Reserved on : 07.08.2015

Order pronounced on : 11.08.2015.

**HON'BLE SHRI SHEKHAR AGARWAL, MEMBER (A)
HON'BLE SHRI RAJ VIR SHARMA, MEMBER (J)**

Sh. Padam Singh
A.E. (E) Retd.
R/o 39/155B, Nand Pura
Deveri Road, Sadar Bazar
Agra Cantt. Agra U.P.
Aged about 62 years.

(By Advocate : Shri Malaya Chand)

....Applicant

versus

Delhi Development Authority,
Through Vice Chairman,
Vikas Sadan, INA,
New Delhi.

(By Advocate: Shri Manish Garg)

....Respondent

O R D E R

SHRI SHEKHAR AGARWAL, MEMBER (A):

The applicant joined DDA as Junior Engineer on 25.10.1982. He was served with a Memorandum on 21.4.1997 under Regulation 16 of DDA (Salaries, Allowances and Condition of Service) Resolution 1961. An inquiry was held and finally a punishment of stoppage of increment for one year with cumulative effect was imposed upon the applicant on 4.2.1999. The grievance of the applicant was that during his entire service period, he had got one promotion as Assistant Engineer only. The respondents had denied to him financial upgradation under the ACP/MACP

Schemes. The applicant superannuated on 31.1.2010. He has filed this OA on 1.11.2012 seeking the following reliefs:-

- “(i) pass an order directing the respondent to grant the 1st and 2nd ACP to applicant (on completion of 12 years and 24 years of services) and to release the arrears accrued to him and also to pay the interest to the applicant on delay payment at the rate of 12% P.A.
- (ii) pass an order directing the respondent to make necessary modification in pension pay order and disburse the arrears of difference in pension.
- (iii) Any other relief which the Hon’ble Court deem fit and proper may also be granted to the petitioner.”

2. During the pendency of the OA, respondent has granted to him the benefit of first and second financial upgradations under ACP Scheme vide their Orders dated 1.3.2013. The monetary benefits arising out of the same have also been paid to the applicant. The respondent contended that the OA has become infructuous. However, the applicant’s submission was that he has still not been paid interest on delayed payment of arrears. Thus, the only surviving grievance of the applicant is payment of interest on arrears.

3. We have heard both sides and perused the material on records.

4. The respondent contended that this OA is barred by limitation as the applicant has approached this Tribunal much after his claims had become due. Thus, the first ACP benefit was due to him w.e.f. 1.4.2000 and the second

financial upgradation was due w.e.f. 17.6.2007, yet the applicant has filed this OA only on 1.11.2012, i.e., much after the limitation period.

5. The applicant on the other hand contended that denial of financial upgradation and wrong fixation of pay as well as pension as a consequence of the same is a continuing wrong and no limitation applies in such cases as has been laid down by the Hon'ble Supreme Court in the case of ***M. R. Gupta vs. Union of India*** [1995 (5) SCC 628].

6. On perusal of the material placed on record, we are convinced that there was no justifiable reason for the respondents to delay grant of financial upgradation to the applicant. Even the currency of minor punishment imposed on the applicant on 4.2.1999 had expired after a year from that date. The delay occurred only on account of carelessness of the respondents themselves and for this, the applicant cannot be made to suffer. We also agree with the applicant that limitation would not apply in matters of continuing wrong such as the present case as laid down by Hon'ble Supreme Court in ***M.R. Gupta's*** case (supra). However, we cannot overlook the fact that the applicant has delayed approaching this Tribunal. Thus, when the first financial upgradation was due to him in the year 2000, there was no reason for the applicant to wait till 1.11.2012 to file this OA. Similarly, when second financial upgradation was due to him

w.e.f. 17.6.2007, he need not have waited for more than five years to file his claim.

7. Under these circumstances, we are inclined to allow interest only with effect from the date of filing of the present Original Application, i.e., 1.11.2012. Accordingly, we dispose of this OA with a direction to the respondent to pay interest at the rate of 9% per annum to the applicant on delayed payment of arrears of pay and pension w.e.f. 1.11.2012 till the date of actual payment. No costs.

(RAJ VIR SHARMA)
MEMBER (J)

/ravi/

(SHEKHAR AGARWAL)
MEMBER (A)