

**Central Administrative Tribunal  
Principal Bench**

**OA No.4575/2014**

New Delhi, this the 14<sup>th</sup> day of December, 2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman  
Hon'ble Mr. P. K. Basu, Member (A)**

Ms. Laj Handa (retired)  
Aged 72 years,  
W/o Sh. M. P. Handa  
R/o L-59 B,  
Malviya Nagar,  
New Delhi 110 017.

.... Applicant.

(By Advocate : Shri Shekhar Kumar)

Versus

1. Govt. of NCT of Delhi  
Through its Chief Secretary  
Delhi Sachivalaya  
IP Estate,  
New Delhi 110 002.

2. Directorate of Training & Technical Education  
Govt. of NCT of Delhi  
Muni Maya Ram Marg,  
Pitam Pura,  
New Delhi 110 034.

3. The Principal  
Industrial Training Institute,  
Arab Ki Sarai  
Nizamuddin,  
New Delhi 110 013.

4. Union of India  
Through its Secretary  
Ministry of Home Affairs,  
North Block,  
New Delhi 110 001.

.... Respondents.

(By Advocate : Shri S. N. Sharma & Shri B. N. P. Pathak)

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

**Justice Syed Rafat Alam, Chairman :**

In the instant Application, briefly stated, the main grievance of the applicant is that though she retired from service in the year 2002, yet her retiral dues including pension have not been disbursed.

2. It appears that the applicant was initially appointed as Senior Draftsman (Civil) with the Delhi Development Authority w.e.f. 13.12.1967. She was thereafter appointed as Crafts Instructor (Civil) with the Directorate of Training & Technical Education, Government of NCT of Delhi, respondent No.2, w.e.f. 15.05.1974. She went on deputation to the State of Uttar Pradesh in the year 1982 initially for a period of one year, which was extended time to time till 30.06.1988. It further appears that the extension of the period of deputation till 30.06.1988 was the final extension and the applicant was required to join her parent department, i.e., respondent No.2, on 01.07.1988. She, however, did not rejoin her parent department and continued with the Government of UP till 28.02.2000, when she was relieved by the State Government.

3. It is the case of the applicant that her case was being considered by the State Government of UP for absorption w.e.f. 01.07.1988, which somehow could not materialize. However, she immediately came to join after being relieved by the borrowing department, but was not allowed to join. She accordingly approached this Tribunal by filing OA No.2771/2001 seeking direction to the respondents to take her back on their strength w.e.f. 01.03.2000, and also to grant her consequential benefits arising therefrom. The respondents in their reply took the plea that the applicant continued to remain on deputation unauthorisedly, and that they were contemplating initiation of disciplinary proceedings against her. The respondents further averred that they had sought advice of the DOP&T as to whether the applicant could be taken back on duty, which was awaited.

4. However, the Tribunal, having considered the averments and submissions made on behalf of the parties, allowed the aforesaid OA of the applicant (OA No.2771/2001) vide order dated 11.12.2001 with the

direction that the applicant would be deemed to have joined her parent department w.e.f. 01.03.2000, and she would also be entitled to payment of pay and allowances with effect from the said date along with consequential benefits. Relevant paragraphs of the order of the Tribunal are extracted as under:

“4. We have considered the averments contained in the counter submitted by and on behalf of the respondents and we are satisfied that the applicant has not been relieved from her deputation with the Directorate of Training and Employment, Govt. of UP till 28.2.2000. Applicant in the circumstances cannot be blamed for not reporting back to respondent No.2 prior to the said date. In matter of deputation, both the lending and the borrowing departments have to concur before an employee is either sent on deputation or is repatriated to his parent department. In the circumstances of the case though respondents, the lending department has asserted that the period of deputation would expire with effect from 30.6.1988, applicant could not have reported back to respondent No.2 as she has not been relieved by the borrowing department, namely Directorate of Training and Employment Government of UP. After she was relieved on 28.2.2000, she has reported back to the respondents on the very next day i.e. on 1.3.2000. Respondents in circumstances, in our view, were not at all justified in refusing to accept her back on duty and assign her posting and pay her pay and all allowances.

5. In the circumstances, present OA is allowed. Applicant is deemed to have joined her parent department, namely respondent No.2 with effect from 1.3.2000. She will be accordingly entitled to payment of her pay and allowances with effect from the said date, namely 1.3.2000. She will also be entitled to consequential benefits arising from the said order.

6. Aforesaid directions be implemented expeditiously and in any event within a period of two weeks from the date of service of this order. In the circumstances of the case, there will be no order as to costs.”

Review application against the aforesaid order filed on behalf of the respondents was rejected by the Tribunal vide order dated 05.02.2002. The contempt petition, CP No.23/2002, filed by the applicant alleging non-observance of the directions contained in the order passed by the Tribunal on 11.12.2001 in OA No.2771/2001, was also disposed of vide order dated 12.02.2002 on the assurance of the counsel for the

respondents that the directions of the Tribunal would be complied with within a period of one week.

5. The learned counsel for the applicant vehemently contended that though the applicant was allowed to join duty, but her pay was not correctly fixed, inasmuch as she was allowed to draw minimum of the pay scale of Rs.5000-8000 only. In the meanwhile, on attaining the age of superannuation she retired from service on 31.05.2002. Yet, her retiral dues have not been paid nor pension is fixed, despite repeated representations. It is urged that the issue regarding her overstay on deputation cannot now be re-opened as the same is concluded after the judgment of this Tribunal in the earlier OA preferred by the applicant, but the respondents are again and again re-opening the issue despite the fact that the judgment of the Tribunal in her OA has attained finality. The learned counsel, therefore, submits that the relief sought in this Application may be granted.

6. On the other hand, learned counsel for the respondents submitted that the applicant was sent on deputation in the year 1982 initially for a period of one year, which was time to time extended, and the last extension was granted for a period up to June, 1988 with the clear stipulation that no further extension would be given. However, after expiry of the aforesaid period, the applicant did not join the parent department. The request for granting another extension for a period of one year w.e.f. 01.07.1988 was rejected by the department and the applicant was directed to join her parent department, but she unauthorizedly continued to work with the borrowing department without any authorization or consent of the lending department. The learned counsel for the respondents submitted that after termination of her deputation, she failed to join her parent department, and, therefore, she illegally continued on deputation from 01.07.1988 to 28.02.2000. It

is also stated on behalf of the respondents that unless her unauthorized continuation on deputation for about 12 years is regularized, the said period cannot be counted for purposes of pension and other retiral benefits. He, however, submits that the retiral dues and pension was also not finalized as her Last Pay Certificate (LPC) was not produced after repatriation. He also submitted that there is an abnormal delay of about 12 years in approaching the Tribunal in respect of the retiral dues, and thus the applicant being guilty of negligence and laches is not entitled to get any relief from the Tribunal.

7. We have considered the submissions made on both sides. The applicant has prayed various reliefs in the Application, which, in our view, is not in conformity with Rule 10 of the CAT (Procedure) Rules, 1987, which does not permit an applicant to seek multiple reliefs in a single application, unless they are consequential to one another. It further appears from the counter affidavit filed on behalf of the respondents that besides non-production of the Last Pay Certificate by the applicant, the pension and other retiral dues could not be finalized mainly for the reason that her over-stay on deputation beyond the period of five years is not regularized and the matter is being examined, and ultimately the Government of NCT of Delhi is to take decision after obtaining legal opinion from the Law Department in the light of the DOP&T advice, which is being processed and final decision on that count is yet to be taken by the respondents. Since the respondents are yet to take decision in respect of the period from July, 1988 to February, 2000, we confine this Application only in respect of the grievance regarding non-payment of retiral dues including pension, and for other reliefs, liberty is given to avail such other remedy available under the law.

8. It is not in dispute that the applicant was sent on deputation, and she immediately reported for duty to her parent department after being relieved by the borrowing department, and as such no fault could be attributed on the part of the applicant. Besides that, the retiral dues, including pension, is not a bounty and an employee earns these benefits by dint of his/her long continuous and unblemished service, and the same being hard-earned benefit in the nature of property, cannot be taken away without due process of law, and as such it becomes payable immediately after retirement and in the event of default, the respondents are liable to compensate the retired officer. In ***State of Kerala and others v M. Padmanabhan Nair*** [(1985) 1 SCC 429] the Apex Court held that since the date of retirement of a Government servant is known in advance, the process of collecting requisite information and issuance of necessary documents should be completed well in advance so that payment of retiral dues could be made to the retiring employee on the date he retires or immediately thereafter.

9. In the case in hand, the respondents have withheld the pensionary benefits of the applicant for 12 years which cannot be approved. In case there was any delay in finalization of pension papers due to administrative reasons, the respondents could have at least sanctioned her provisional pension. However, a statement is made on behalf of the respondents that steps have already been taken to release provisional pension of the applicant for the service period rendered in the department from 15.05.1974 to 05.06.1982 and 01.03.2000 to 31.05.2002 (10 years 3 months 20 days) and to initiate process for calculation of leave salary and pension contribution (LSPC) to be received from UP Government for settlement of her terminal benefits. A copy of the letter dated 11.12.2015 addressed to Shri B. N. P. Pathak, learned

counsel for the respondents is produced for our perusal. The same is ordered to be taken on record.

10. In view of the stand taken, we dispose of this Application with the direction that the respondents shall release the provisional pension and GPF to the applicant within a fortnight from the date of production of certified copy of this order, and shall also take steps for release of the payment of Gratuity, leave encashment and regular pension within a period of three months from the date of production of certified copy of this order. Since the applicant is also guilty of approaching the court after 12 years, we are allowing interest at the rate which is payable on GPF w.e.f. the date of filing of this OA, i.e. 10.12.2014, till the date of actual payment. However, if the respondents fail to carry out the aforesaid directions, they shall further be liable to pay penal interest at the rate of 9% per annum from the date of filing of the OA till the date of payment.

11. At this stage, learned counsel for the applicant submitted that the respondents while calculating her pension ought to have considered the past service rendered from 1967 to 1974 in the other Government Organisation i.e., DDA and also the service rendered on deputation with the State of UP. We are afraid, such direction cannot be issued in this proceeding as the same being a separate cause of action, as noted above, is barred by the provision of Rule 10 of the CAT (Procedure) Rules 1987, which prohibits an applicant to seek plural remedies in a single application and provides that an application shall be based on a single cause of action and may seek one or more reliefs provided that they are consequential to one another. As noted earlier, we have confined this Application only in respect of grant of retiral dues including pension. We, therefore, provide that it would be open to the applicant to raise the

grievance for counting the period of service from 1967 to 1974 and also the period spent on deputation for the purpose of pension and other retiral benefits, before the respondents. In the event such representation is made within four weeks, the respondents shall examine the grievance and take appropriate decision by recording reasons and in accordance with the law expeditiously, preferably within a period of two months. If the applicant feels aggrieved by the ultimate decision to be taken on her representation, it would be open to avail such remedy available under the law. It goes without saying that in the event the period of unauthorized continuance on deputation is condoned or regularized, her pension etc. would be accordingly revised.

12. It is clarified that our observations and findings in this order are only for the purpose of grant of retiral dues including pension, and will not be taken as a finding or observation in respect of other claims or reliefs sought in this Application, for which liberty is given to the applicant to avail the remedy in accordance with law.

13. With the above order, the OA stands disposed of, but without costs.

**(P. K. Basu)**  
**Member (A)**

**(Syed Rafat Alam)**  
**Chairman**

/pj/