

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 4169/2014

Reserved on: 10.08.2017  
Pronounced on: 27.11.2017

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

Kumud Ranjan Sinha  
S/o late Shri S.C. Sinha  
Aged about 47 years  
D-13, IFS Apartments  
Mayur Vihar, Phase-I  
New Delhi-110091

... Applicant

(Through Shri Ajesh Luthra, Advocate)

Versus

1. Union of India through  
The Secretary  
Ministry of External Affairs,  
South Block, New Delhi-110001
2. Chief Controller of Accounts  
Ministry of External Affairs,  
Jawahar Lal Nehru Bhawan,  
(Near Nirman Bhawan)  
New Delhi
3. Secretary  
Ministry of Personnel, Public Grievances & Pensions  
North Block,  
New Delhi-110001

... Respondents

(Through Shri R.N. Singh, Advocate)

ORDER

This is the second round of litigation. The applicant filed OA 2406/1999 assailing the action of the respondents whereby the gratuity amount was withheld by the respondents as well as non-payment of interest on the delayed payment of retiral benefits. The Tribunal allowed the OA partly vide its order dated 17.10.2001. The operative portion of the order dated 17.10.2001 is quoted as under:

“10. Having regard to the reasons recorded above, the present OA is partly allowed. The respondents are directed to pay to the applicant interest on delayed payment of retiral benefits to be computed from 26.08.1999 till it is actually paid with simple interest at the rate of 12% p.a.

11. As regards dues on account of HBA, MCA advance and excess bills are concerned, while retaining the gratuity of the applicant the respondents are directed to accord a reasonable opportunity to the applicant by way of issuing him a show cause notice and giving details of the arrears to the recovered from him and thereafter affording him an opportunity to put his version and the proof of having paid some of the dues and thereafter to take a final decision within a period of three months from the date of receipt of a copy of this order. No costs.”

2. It is the contention of the learned counsel for the applicant that the respondents have not complied with the order and directions of this Tribunal nor have they given any Show Cause Notice to the applicant, as directed in the order. On the other hand, they have directed the applicant to deposit an amount of Rs.3,74,584/- which, according to the respondents, could finalize the case, vide their letter dated 9.07.2003.

3. It is contended by the learned counsel for the applicant that the respondents informed him that an amount of Rs.3,50,000/- was due to him on account of gratuity and an amount of Rs.1,52,165/- was due on account of arrears of pay and allowances and thus after adjusting the total amount of Rs.5,02,165/- due to him against the recoveries mentioned in their letter dated 21.01.2003, an amount of Rs.3,74,584/- was still due to the government. Learned counsel further stated that not following the order of this Tribunal is completely in direct teeth with the directions passed by this Tribunal dated 17.10.2001.

4. Learned counsel for the respondents stated that Show Cause Notice could not be given to the applicant as he was no more in service and retired on superannuation on 31.01.1998. He thus ceased to be a government servant under the extant provisions of the Rules under which a Show Cause Notice could be served on him and accordingly, the action on the part of the respondents of service of notice had become infructuous. Learned counsel also stated that sub-rule 2 of Rule 71 of CCS (Pension) Rules 1972 governs recovery of government dues from the gratuity of retiring government employee and does not provide for any provision of serving Show Cause Notice for recovering government dues. He vehemently stated that as the amount which was due to the applicant on account of gratuity was lesser than the amount recoverable from him, the applicant had been directed to pay the balance amount of Rs.3,74,584/- to clear all his dues and that there was nothing wrong in it. With

regard to serving Show Cause Notice, the learned counsel stated that the applicant was not given any formal notice but was issued a Revised Final No Demand Certificate dated 21.01.2003, which is for the purpose of final settlement of dues.

5. Learned counsel for the respondents further stated that after such a long time, the applicant has filed a fresh OA with the same prayer, which is not permissible under law and on this ground alone, this OA deserves to be rejected.

6. We have heard the rival contentions of the parties, perused the record and the judgment passed by this Tribunal in OA 2406/1999.

7. Perusal of the judgment dated 17.10.2001 in OA 2406/1999 clearly depicts that the main contention in that OA was also regarding withholding of gratuity amount and non-payment of interest on delayed payment of retiral benefits. The applicant has again through this OA prayed for a direction to the respondents to pay him gratuity, and arrears of salary arising on account of revision of pay consequent to V CPC forthwith and revise his pension accordingly and pay him arrears along with interest @ 24% per annum from the date of due to the date of actual payment.

8. It is seen that the judgment in OA 2406/1999 was passed on 17.10.2001, partly allowing the OA in favour of the applicant with certain directions. It is not understandable why the applicant waited for a long 13 years to approach this Tribunal if

the respondents had not complied with the directions of the Tribunal. The applicant could have come up with a Contempt Petition or could have filed an execution application within the limitation period as per Rules. He has, however, after a long period of 13 years approached this Tribunal more or less with the same prayer. Though the applicant has filed an application for condonation of delay but a person who has been contesting various cases before various Courts could have also filed a Contempt Petition/ execution application within time. The Hon'ble Supreme Court in a plethora of judgments has settled the legal position that limitation plays an important role in deciding any case and if the reasons given are cogent, the Tribunal/ Court could condone the delay. Here I do not find any cogent reason for condoning delay. Now the question is whether the Tribunal could pass a second order in a fresh OA on the same cause of action in which it has already passed a direction in favour of the applicant 16 years back and he did not take any action to get it implemented?

9. After the judgment in OA 2406/1999, the applicant has not taken any action for implementation of directions given therein. No judgment has been brought to my knowledge laying down any law that direction given 16 years back can be revived by a fresh direction after the limitation period of Contempt/ execution is over? The answer to the above question, therefore, would

obviously be in the `negative'. Accordingly, I feel that the OA lacks merit and is, therefore, dismissed. No costs.

(Jasmine Ahmed)  
Member (J)

/dkm/