

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2522/2016

**Reserved On:23.04.2018
Pronounced on:27.04.2018**

Hon'ble Mr. V. Ajay Kumar, Member (J)

Jay Karan
(Retired Sub Inspector (Exe.) of Delhi Police)
Belt No.D-1855, PIS No.28770092
S/o Late Shri Kartar Singh
R/o RZ-256, B-Block, Nanda Enclave,
Najafgarh, New Delhi.Applicant

(By Advocate: Shri Sourabh Ahuja)

Versus

1. Union of India
Through its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Pay and Account Officer
PAO-xvi (Delhi Police-ii)
Ministry of Home Affairs,
17/11, Jamnagar House,
Mansingh Road,
New Delhi-110011.
3. Commissioner of Police,
Delhi Police,
Police Head Quarter,
IP Estate, MSO Building,
New Delhi-110002.
4. Pay & Account Officer
GPF Cell,
Old Secretariat,
Delhi.
5. Deputy Commisioner of Police
(Security),
Through Commissioner of Police,

Police Head Quarter,
IP Estate,
MSO Building,
New Delhi-110002.Respondents

(By Advocate: Shri Subhash Gosain for R-1 & R-2
Ms. Sangeeta Tomar for R-3)

ORDER

The applicant, a retired Sub Inspector (Executive) of the respondent-Delhi Police, filed the OA seeking the following reliefs:-

“(i) Quash and set aside the impugned order dated 01.04.2016 (mentioned in para 1 of the OA), whereby the respondents have only granted provisional pension to the applicant and withheld all the pensionary/retiral benefis including gratuity, commuted pension and regular pension; and

(ii) Direct the respondents to release the pensionary/retiral benefits including gratuity, commuted pension and regular pension from the date of applicant’s superannuation, i.e., 31.03.2016; and

(iii) Accord the applicant with all consequential benefits arising therefrom viz. difference in the pension, arrears arising therefrom, interest @ 18% per annum on the delayed payment of the retiral/pensionary benefits including gratuity, commuted pension and regular pension; and

(iv) Award cost in favour of the applicant and against the respondents; and/or

(v) Pass any further order, which this Hon’ble Tribunal may deem fit, just equitable in the facts and circumstances of the case”.

2. The brief admitted facts of the case are that while the applicant was working as Sub Inspector (Executive), his daughter-in-law lodged FIR No.28/2013 under Sections 498A/406/34 IPC in PS, Inder Puri, Delhi on 15.02.2013 against the applicant and his son and other family members. The applicant immediately informed about the lodging of the said FIR to the respondents and that the respondents have not taken any coercive steps against the

applicant, such as suspension, disciplinary proceedings etc. Finally, the applicant retired from service on 31.03.2016, on attaining the age of superannuation.

3. The respondents vide the impugned Annexure-1 order dated 01.04.2016, granted only provisional pension and withheld the gratuity and other retiral benefits pending finalization of the judicial proceedings. Finally, the Hon'ble High Court of Delhi in **W.P. (Crl) 3113/2017** by order dated 09.11.2017 in **Shri Pawan Kumar and Others Vs. The State Government of NCT of Delhi and Another** quashed the FIR No.28/2013 registered against the applicant and others recording the no objection for quashing of the FIR by the daughter-in-law of the applicant and considering the amicable settlement arrived at between the parties.

4. Heard Shri Sourabh Ahuja, learned counsel for the applicant, Shri Subhash Gosain for respondents No.1 and 2 and Mrs. Sangeeta Tomar for respondent No.3 and perused the pleadings on record.

5. Shri Sourabh Ahuja, learned counsel appearing for the applicant while placing reliance on a decision of a Single Member Bench of this Tribunal in **OA No.1514/2012 – Jawahar Lal Vs. Commissioner of Police and Others** dated 16.07.2012 submits that the

respondents have no power or authority to withhold his full pension, gratuity or any other retiral benefits as the judicial proceedings pending against the applicant at the time of his retirement are in no way connected to his employment. The learned counsel further submits that he was neither suspended nor any disciplinary proceedings were pending against him on the date of his retirement and that the criminal proceedings instituted by his daughter-in-law, which were finally quashed by Hon'ble High Court of Delhi, have nothing to do with his official functions and hence the action of the respondents in withholding his full pension, gratuity and other retiral benefits is illegal and hence he is entitled for release of the same with interest at the rate of 18% per annum from the date of retirement till actual payment.

6. On the other hand, Ms. Sangeeta Tomar, learned counsel appearing for respondent No.3, while not disputing the facts, however, submits that the applicant alone was responsible by way of his conduct for institution of criminal proceedings against him. The learned counsel further submits that as per Rule 69 of the CCS (Pension) Rules, 1972, the respondents are empowered to release only provisional pension and to withhold the gratuity where departmental or judicial proceedings are pending as on the

date of retirement of a public servant. Since, admittedly, judicial proceedings were pending as on the date of retirement of the applicant, there is no illegality or irregularity in the action of the respondents in releasing only provisional pension and in withholding gratuity of the applicant.

7. The learned counsel further submits that Rule 69 has not distinguished or differentiated the nature of the judicial proceedings in any manner. A Government servant is not entitled for release of full pension or gratuity if judicial proceedings were pending as on the date of his retirement, even if the said judicial proceedings were not pertaining to his official functions.

8. It is true that as rightly pointed out by the learned counsel for the respondents, Rule 69 of the CCS (Pension) Rules, 1972, simply provides for withholding of full pension and the gratuity if any judicial proceedings were pending against the Government servant as on the date of retirement. Moreover, either from the rule or from any of the Government of India's decisions issued under the said rule, it cannot be said that the said judicial proceedings should be pertaining to his official functions. But it can be deduced from a comprehensive reading of the Rule 69. Rule 69 was a stop-gap arrangement keeping in view the

fact that in the event if the employer of the Government servant sustained any loss or required to pay any amount to any other authority, being the result of the criminal proceedings instituted against the Government servant, the same can be adjusted from the withheld gratuity and other retiral benefits of the applicant. If the judicial proceedings pending against the applicant were not related with any of his official functions, the question of sustaining loss or making payment to any other person by the employer of the public servant does not arise at all. Therefore, it can be safely concluded that the judicial proceedings mentioned in Rule 69 are pertaining to the judicial proceedings arose in connection with his official functions only.

9. In **Jawahar Lal** (supra), a learned Single Member of this Tribunal held that pendency of a criminal case based on a private complaint made by his neighbour has nothing to do with the employment of a Government servant and the same is not a valid reason for not releasing the pension and other retiral benefits to the Government servant.

10. In the circumstances and for the aforesaid reasons, the OA is allowed and the respondents are directed to release all the reitral benefits of the applicant within 60 days from the date of receipt of a copy of this order. They shall also pay interest at the rate of 8% per annum on the

delayed amounts from the date of retirement to till the date of actual payment. No costs.

(V. AJAY KUMAR)
MEMBER (J)

RKS