

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2355/2017

Reserved on : 25.07.2018.

Pronounced on : 14.08.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Dr. Yog Raj Handoo,
S/o Late Sh. M.L. Handoo,
R/o 87, Samaj Kalyan Co-operative Society,
Bodella, Vikaspuri,
New Delhi.

..... Applicant

(through Sh. R.K. Handoo, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan,
New Delhi-110011.
 2. Ministry of Health and Family Welfare
Through Principle Secretary,
Government of NCT of Delhi,
9th Floor, A-Wing, Delhi Secretariat,
I.P. Estate, New Delhi-110001.
 3. Government of NCT of Delhi
Through Chief Secretary/Principal Secretary,
Delhi Secretariat,
I.P. Estate, New Delhi-110002.
 4. Medical Superintendent,
Deen Dayal Hospital,
Hari Nagar, New Delhi.
- Respondents

(through Sh. Vijay Pandita, Advocate)

ORDER

The applicant was appointed by the Ministry of Health and Family Welfare, Government of India and posted under Delhi Administration w.e.f. 01.02.1990. On 12.09.2011, the applicant after completing his 20 years of qualifying service gave three months notice for voluntary retirement in terms of Rule-48-A(ii) of CCS (Pension) Rules, 1972. The respondents disputed the deemed voluntary retirement of the applicant on the ground that disciplinary proceedings are contemplated against him. The applicant approached the Principal Bench of Central Administrative Tribunal in OA-3212/2014 praying for release of his pensionary benefits on his voluntary retirement from 11.12.2011 i.e. on expiry of three months notice period as provided under the Rules. The Tribunal allowed the O.A. holding that the applicant stood retired w.e.f. 11.12.2011 as per Rules. The respondents were also directed to release the pensionary benefits within a period of three months to the applicant from the date of receipt of a copy of the order dated 04.08.2015 and to pay interest at GPF rate on the unpaid amount.

2. The applicant states that despite these orders, the respondents did not release the pensionary benefits, hence the applicant filed Contempt Petition-100/2016 against the respondents. The said Contempt Petition was dismissed on 15.09.2016 holding that the respondent No.2 was responsible for disbursement of pensionary

benefits. In the meantime, GNCT of Delhi challenged the order dated 04.08.2015 of the Tribunal before the Hon'ble High Court of Delhi in Writ Petition (C)-5236/2016, which was dismissed on 21.07.2016, confirming the order of the Tribunal.

3. Pursuant to the dismissal of the Writ Petition, the voluntary retirement application of the applicant was formally accepted by the respondents on 02.09.2016 retrospectively w.e.f. 11.12.2011. The Pay & Accounts Officer vide order dated 08.09.2016 has made the payment of retiral benefits to the applicant but has declined to pay any interest to the applicant.

4. The applicant in the O.A. states that the respondents have used the money of the applicant from 2011 till the date of disbursement for nearly five years. The applicant has also computed the actual amount, which is due to him (Annexure A-7). The limited prayer of the applicant here is that the respondents should be directed to release interest on the delayed payment of pensionary benefits from 11.12.2011 to September, 2016.

5. The respondents in their counter submit that the applicant was placed under suspension vide order dated 24.11.2011, which was revoked on 09.07.2012. However, the applicant remained absent from duty w.e.f. 11.12.2011 claiming that he had applied for acceptance of voluntary retirement from service w.e.f. 11.12.2011.

They further aver that pensionary benefits were paid to the applicant after his voluntary retirement from service was accepted as per the directions of Hon'ble High Court of Delhi. Since the voluntary retirement was accepted on 02.09.2016 and the payment was made to him on 06.09.2016, hence, there was no delay in payment, and the question of interest on delayed payment does not arise.

6. The issue regarding acceptance or otherwise of voluntary retirement of the applicant came to rest vide final order of Hon'ble High Court of Delhi on 21.07.2016. In the said order, it was observed that:--

"Based on this note, learned counsel for the petitioner submits that he has instructions to state that the process of releasing the pensionary benefits to the Doctors would be completed latest by within six weeks from today. Let an appropriate affidavit be filed by the petitioner before the Central Administrative Tribunal as well as before the Court where the contempt proceedings are pending. We have no hesitation in recording that should the affidavit be filed by the petitioner before the Central Administrative Tribunal, the respondents would not press the contempt petition. Leave granted to both the Doctors (respondent no.1 in the present writ petitions) to approach this Court in case the undertaking given to this Court is floated."

6.1 The respondents, in compliance of the Hon'ble High Court's order formally accepted the voluntary retirement application of the applicant on 02.09.2016 (retrospectively w.e.f. 11.12.2011) and paid him the retiral benefits on 08.09.2016. Before adjudicating the question of interest, it is pertinent to bear in mind the directions of the Tribunal on 04.08.2015. The same were:-

"30.....Respondents shall accordingly make payment of consequential retiral dues as per rules within a period of three months from the date of receipt of a copy of this order. For any delay beyond three months, respondents shall make payment of interest on the admissible unpaid amount at the rate as paid in the matter of GPF."

This order of the Tribunal was challenged before the Hon'ble High Court by the respondents (as already mentioned earlier). During the pendency of the said petition, the payments could not have been made by the respondents when the order it was under challenge. When the Writ Petition was dismissed on 21.07.2016, necessary compliance was made by the respondents by making the payment to the applicants.

6.2 It is pertinent to mention here that the time frame of six weeks was not given by the Hon'ble High Court, rather it was the stipulated time which the respondents set for themselves to release the pensionary benefits to the applicant. The processing of the retiral benefits etc. has taken about 08 weeks, which seems justifiable and which, in my opinion does not violate the orders of the Hon'ble High Court of Delhi. In view of these facts, the applicant is not entitled for any interest.

6.3 The citation relied upon by the applicant is not relevant to the facts of the present case. The O.A. is dismissed. No costs.

(Praveen Mahajan)
Member (A)

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