

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00210/2017

DATED THIS THE 15th DAY OF SEPTEMBER, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Dr. K. Srinivasacharya, 60 years,
S/o Dr. K.V. Raghavacharya,
Retired Research Assistant
Central Institute of Indian Languages,
Mysuru-570 006.

.....Applicant

(By Advocate: Shri P.A. Kulkarni)

Vs.

1. Union of India,
By its Secretary,
Ministry of Human Resource Development,
Department of Higher Education,
Government of India,
Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi -110 001.

2. Director,
Central Institute of Indian Languages,
Manasagangothri,
Hunsur Road,
Mysuru – 570 006.

3. Pay and Accounts Officer,
Ministry of Human Resource Development,
Government of India,
Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001.

...Respondents

(By Advocate: Shri M.V. Rao, learned Senior Panel Counsel for R-1 to R-4.)

O R D E R (ORAL)

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN)

The applicant has filed the present OA seeking the following relief:

“Direct the respondents to process and settle the pension case of the applicant forthwith and to cause release of the monthly pension and terminal benefits due to him by virtue of his superannuation retirement from service w.e.f. 30.06.2016 A/N.”

2. The applicant submits that he joined the respondent organization in the year 1986 as Research Assistant (Annexure A1). Thereafter, he got 1st financial upgradation under ACP with effect from 23.05.2000 and 2nd financial upgradation under MACP with effect from 01.09.2008. He retired on attaining the age of superannuation on 30.06.2016. The applicant was asked to produce ‘no due certificate’ from various sections/units of the Institute to process his pension papers. He represented to the Director, CIIL, Mysuru to process his pension papers and to forward the same to the Pension Sanctioning Authority (Annexure A5). However, the respondents vide note dated 18.04.2016 (Annexure A6) informed him that sanction of the

pension will be considered only after his settling all the pending accounts with reference to the advances drawn by him from the Institute as a Programme Officer/Coordinator to conduct programmes as per the programme schedule. The applicant submits that the sanction of pension cannot be withheld for the reasons mentioned by the respondent. His gratuity amount is still lying with the authority which can be withheld and the pension issue be settled. Non-release of the monthly pension so far, in spite of his attaining superannuation on 30.06.2016 would amount to withholding of his pension without any authority of law. He referred to Hon'ble Apex Court's judgment in Civil Appeal No.6770 & 6771 of 2013 reported in (2013) 12 SCC 210 (Annexure A7) in support of his contention. He submits that in respect of programmes conducted while in office, the accounts relating to the advances are processed under the direction of the Institute Director and he is going to office every day to complete the exercise of submitting the final accounts with reference to the advances drawn by him while in office. It may take some more time to complete the said process inspite of his best efforts in that direction. In the meanwhile his pension be paid. Therefore, the applicant has prayed for granting the relief as sought for by him.

3. The respondents have filed a reply statement in which they submitted that the applicant during his service conducted and coordinated several workshops, programmes, seminars etc. on Indian languages in collaboration with Universities, Colleges, Institutions both government and private on the directions of the authority of the Institute. As a Coordinator, he was required

to draw advances from the Institute and disburse the money to the participants towards travel, stay, honorarium expenses etc. It was his duty to ensure that the bills received by him from participants and other expenses are submitted well in time to the Institute so as to settle the advances in accordance with the financial rules. However, a majority of the advances taken by the applicant still remained outstanding and it amounts to Rs.1,17,07,700/-.. Before the applicant retired on superannuation on 30.06.2016, he asked to submit a no due certificate (NOC) from different units of the Institute so as to enable the Institute to prepare his pension papers and forward them to the Pay and Accounts Office (PAO), New Delhi for issue of pension and the related benefits. The pension papers are required to be forwarded to the Accounts Officer as per the Format “Form 8” (Annexure R2), who seeks information on whether the Government servant has been assessed for dues and the nature thereof. Though in terms of direction of the Director, the pension papers of the applicant were forwarded to PAO with the observation that the applicant had taken advances which are still outstanding against his name and bills were not rendered and settled. The PAO, New Delhi returned the pension papers stating that the outstanding amount be settled in the first instance and thereafter the pension papers be forwarded to them for necessary action. The Internal Audit and the Audit conducted by the Accountant General, Karnataka pointed out the lapses and directed that remedial action be taken to rectify the situation and settle the bills without any delay. The applicant has submitted some of the bills towards settlement, but huge advances are still

pending in his name. The applicant has also been paid the entire amount available in his General Provident Fund (GPF) account in December, 2016. The outstanding amount required to be settled is considerable and is more than the pensionary benefits due to the applicant. The amount outstanding for settlement now by the applicant is around Rs.96,60,700/-. Therefore, the actions of the respondents are not unjustified.

4. During hearing, learned counsel for the applicant admitted the fact of pending settlement of some advances taken by the applicant but contended that the same has been pending for a long period. The applicant is now going to the Institute every day for preparing the settlement bills and it may take another 3-4 months for final settlement of all the outstanding advances. He submitted that in the absence of any departmental proceeding, there is no provision under rule of law for withholding the pension. Even in such cases provisional pension is allowed. Therefore, the applicant is entitled to get his pension sanction.

5. The learned counsel for the respondents stated that the pension papers will be made, but only after submitting the NOC from the units of the Institute, the same can be processed by the Sanctioning Authority. The applicant is yet to settle all the outstanding advances amounting to nearly a crore and it is much more than the pension amount due to him. Therefore, it will not be appropriate on the part of the Institute to send the pension papers to PAO without the settlement of the accounts. As soon as the outstanding

advances are settled, the pension papers would be sent to PAO immediately and the matter expedited so that his pension is sanctioned immediately. On a query as to how the Institute kept on sanctioning advances when the previous advances remained unsettled for so long, there was no specific answer to this by the Ld.Counsel for the respondents except saying that there was lacunae on the part of the respondents. For not pursuing the matter of settlement of advances and releasing advances in spite of huge pendency of advances sanctioned earlier by the Institute, the Ministry has also asked the Institute to take action against the concerned officials.

6. We have gone through the records and submissions made by both sides. It is evident from the facts and submissions that the applicant had taken advances on repeated occasions for conducting various programmes and had not given adjustment against the same. It was essential on the part of the applicant to submit the adjustment of the advances drawn by him immediately after the programme was conducted but he did not do so for long periods. It is also surprising that the Institute kept on giving advances to the applicant repeatedly for 8 years without obtaining the adjustment of the previously sanctioned advance. The learned counsel for the applicant during the hearing submitted that the applicant taken the note and is expected to settle all the advances within a period of 3-4 months. Therefore, we are of the view that this matter should be expedited by the applicant so that the entire outstanding advances drawn by him stands settled. In the meanwhile, the Institute should keep the pension papers of the applicant

ready and send the same to the PAO immediately after the advances are settled. The PAO shall sanction the pension within a period of one month thereafter. The Institute should lay down clear guidelines for grant of advances and their adjustments and strictly adhere to them to prevent recurrence of such situations.

7. The OA is accordingly disposed of with the above direction. No order as to costs.

(PRASANNA KUMAR PRADHAN)

MEMBER (A)

(JUSICE HARUN UL RASHID)

MEMBER (J)

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Annexures referred to by the applicant in OA No.170/00210/2017

Annexure A1: Copy of the order of appointment dtd.5.11.1986

Annexure A2: Copy of the appointment order dtd.2.12.1986

Annexure A3: Copy of the confirmation order dtd.4.7.1996

Annexure A4: Copy of the relieving order dtd.30.6.2016

Annexure A5: Copy of the representation dtd.22.3.2016

Annexure A6: Copy of the communication dtd.18.4.2016

Annexure A7: Copy of the Apex Court ruling reported in (2013)12SCC210

Annexures with reply statement:

Annexure R1: Copy of the details of AC advances taken by the applicant
Annexure R2: Copy of the Form 8
Annexure R3: Copy of the letter dated 15.5.2017 issued by Central Institute of Indian Languages
Annexure R4: Copy of the relief order dtd.30.6.2016
Annexure R5: Copy of the memorandum dtd.14.3.2016
Annexure R6: Copy of the representation dtd.23.3.2016 of the applicant
Annexure R7: Copy of the Note No.F.1/10-74/2014/Estt. dtd.18.4.2016
Annexure R8: Copy of the representation dtd.28.9.2016 of the applicant
Annexure R9: Copy of the Note No.F.1/10-74/87/Estt./228 dtd.7.10.2016
Annexure R10: Copy of the letter dtd.3/4.10.2016 of PAO, Central Institute of Indian Languages, N.Delhi
Annexure R11: Copy of the letter dtd.9.1.2017 issued by the Institute
Annexure R12: Copy of the letter dtd.14/22.3.2017 of PAO, N.Delhi returning the pension papers of the applicant
Annexure R13: Copy of the observation of the PAO, N.Delhi dtd.31.3.2017
Annexure R14: Copy of the Internal Audit Report of Central Institute of Indian Languages dtd. 28.12.2016
Annexure R15: Copy of the statement of facts dtd.1.5.2017 issued by the Principal Director of Audit (Central), Bengaluru
Annexure R16: Copy of the letter dtd.8.6.2017 issued by the Ministry of Human Resource Development
Annexure R17: Copy of the letter dtd.13.7.2017 issued by the Institute to the Applicant
