CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
...

O. A. No.60/1513/2017   **Date of decision: 08.08.2018**

...

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
            HON'BLE MRS. AJANTA DAYALAN, MEMBER (A).
...

Sanaullah Khan (S.U. Khan), aged 72 years, S/o Sh. Habibullah Khan, R/o H. No.281, Sector 12-A, Panchkula (Haryana).

... APPLICANT

VERSUS

1.   Union Territory Chandigarh through Its Home Secretary-cum-Secretary Excise & Taxation, U.T. Sectt. Building, Sector-9, Chandigarh.

2.   Excise & Taxation Commissioner, U.T., Chandigarh, Additional Town Hall Building, Sector 17-C, Chandigarh.

... RESPONDENTS

PRESENT: Sh. G.S. Sathi, counsel for the applicant.
           Sh. Arvind Moudgil, counsel for the respondents.

ORDER (Oral)
...

SANJEEV KAUSHIK, MEMBER (J):-

1.   By means of present O.A., the applicant has impugned Annexures A-1a and A-1b, whereby respondents have rejected his representation for grant of pension w.e.f. 01.10.2015 to 30.11.2016.

2.   The facts are largely not in dispute.

3.   We have heard learned counsel for the parties.

4.   Learned counsel for the applicant submitted that the applicant retired on attaining the age of superannuation on 30.06.2003. He was allowed provisional pension, pending departmental as well as criminal proceedings and continued to get 75% pension.   While concluding

departmental proceedings, respondents imposed punishment of 5% cut in pension. Thereafter applicant is receiving 95% pension.

5. He had submitted representation but the same has been turned down by a non-speaking order dated 01.12.2016 (Annexure A-2), whereby they have withheld entire pension in terms of 2.2 (a) of the Punjab Civil Services Rules, Vol.2. However, that order has been challenged by the applicant in some other proceeding. Solitary grievance raised by the applicant in the present O.A. is that respondents have not paid him pension from 01.10.2015 to 30.11.2015. Learned counsel submitted that executive orders passed on a particular date cannot operate retrospectively, therefore, he is legally entitled to pension from 01.10.2015 to 30.11.2015. Therefore, he requested that since respondents have not said anything about the aforesaid period, therefore, a direction be issued to them to decide his claim by passing a reasoned and speaking order.

6. Respondents are not in a position to support the impugned orders, in view of law laid down in the case of **State Bank of Patiala vs. Ram Niwas Bansal**, AIR 2014 SC 1264 that a penalty cannot be imposed retrospectively. Also, the order is non-speaking as it does not reflect the mind of the respondents as to why they have rejected the representation of the applicant.

7. Having deeply considered the crux of projected grounds and in the light of the aforesaid prismatic reasons, we are in agreement with the submissions made at the hands of the applicant that this order cannot sustain for a simple reason because it has been passed in violation of principles of natural justice and by a non-speaking order. Lord Denning M.R. in **Breen v. Amalgamated Engg. Union** (1971) 1 All

ER 1148, observed "The giving of reasons is one of the fundamentals of good administration". In **Alexander Machinery (Dudley) Ltd. V. Crabtree** 1974 ICR 120 (NIRC) it was observed "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". The same view has been expressed by Lordship in case of **Raj Kishore Jha versus State of Bihar & Others,** 2003(11) CC 519.

8. Accordingly, the impugned orders are quashed and set aside. In view of the fact that there is no order passed by the respondents, withholding pension of the applicant for the aforesaid period, they are directed to relook into the matter and pass a fresh reasoned and speaking order in accordance with law within a period of two months from the date of receipt of a certified copy of the order.

   (AJANTA DAYALAN)   **(SANJEEV KAUSHIK)**
     MEMBER (A)   **MEMBER (J)**

Date: 08.08.2018.
Place: Chandigarh.

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