

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/01002/2016

Chandigarh, this the 28th day of November, 2017

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**CORAM:HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J) &
HON'BLE Ms. P. GOPINATH, MEMBER (A)**

Vinod Kumar Jain S.D.E (Retd) s/o Sh. Darshan Kumar Jain age
57 years r/o H. No. 47, Sector 15, Panchkula (Haryana) (Group A)
....Applicant

(Present: Mr. Pradeep Sharma, Advocate)

VERSUS

1. UT Administration, through Secretary Engineering, 4th Floor,
UT Secretariat, Sector 9, Chandigarh.
2. The Chief Engineer, Union Territory, Chandigarh, Sector 9,
Chandigarh.
3. Estate Officer, UT, Chandigarh, Sector 17, Chandigarh.
4. Chief Vigilance Officer, UT, Chandigarh, Sector 9,
Chandigarh.
5. The Accountant General (A&E), Union Territory, Chandigarh,
Sector 17, Chandigarh.

....Respondents

Present: Mr. Arvind Moudgil, Advocate for Respondents No. 1 to 4
Mr. I.S. Sidhu, Advocate for Resp. No. 5)

**ORDER (Oral)
JUSTICE M.S. SULLAR, MEMBER (J)**

1. The epitome of facts and material, which needs a necessary mention, for the limited purpose, of deciding the core controversy, involved in the instant Original Application (O.A.), and emanating from the relevant record is that having competed 37 years of service, applicant Vinod Kumar Jain s/o Sh. Darshan Kumar Jain, retired from the post of SDO w.e.f. 01.02.2016, after submitting complete set of documents, for grant of pension. However, he was granted only provisional pension, in the garb of pendency of some false complaints/vigilance inquiries.

2. The case set up by the applicant, in brief, insofar as relevant, is that after his retirement, the Chief Engineer, U.T. Chandigarh (Respondent No. 2) made reference to the office of Accountant General (Respondent No. 5), for releasing the full pensionary benefits, to the applicant, vide letters dated 25.04.2016 (Annexure A-6) and dated 20.05.2016 (Annexure A-7). However, his case of grant of pensionary benefit, was returned by the office of Accountant General, on the ground of pendency of vigilance enquiry, vide impugned letter dated 05.07.2016 (Annexure A-8).

3. Aggrieved thereby, the applicant has challenged the validity of the impugned order and action of the respondents, mainly on the grounds of being against the statutory rules of 2.2 (b) of Punjab Civil Services Pension Rules, arbitrary, illegal and without jurisdiction. According to the applicant, that the respondents cannot withhold his pensionary benefits indefinitely, in the garb of a pending complaints/vigilance inquiries.

4. Levelling a variety of allegations and narrating the sequence of events, in detail, in all, the applicant claims that he is entitled to full pensionary benefits, but the respondents are not releasing the same, in the garb of pendency of vigilance inquiry.

5. On the contrary, the respondents have refuted the claim of the applicant, and filed reply, wherein it was pleaded that various complaints, made against the applicant, during the course of his employment as SDO (Building) were pending, in the Estate Office, UT Chandigarh. The details of such complaints were stated to be mentioned in letter dated 11.02.2016 Annexure R-5), written by the Chief Engineer to the Estate Officer, UT, Chandigarh. However, it was admitted that the applicant was permitted to voluntarily retire

w.e.f. 01.02.2016, vide order dated 29.01.2016 (Annexure R-6), by the Competent Authority. The reference for release of his regular pension was returned by the office of Accountant General, vide impugned order dated 05.07.2016 (Annexure A-8)

6. According to the respondents, that the benefit of regular pension was not sanctioned, in favour of the applicant, owing to the pendency of vigilance inquiry, against him, as depicted in letter dated 11.02.2016 (Annexure R-5). Instead of reproducing the entire contents of the reply, and in order to avoid the repetition of facts, suffice it to say, that while acknowledging the factual matrix, and reiterating the validity of the impugned orders/action, the respondents have stoutly denied all other allegations and grounds, contained in the O.A., and prayed for its dismissal.

7. Controverting the pleadings in the written statement of the respondents, and reiterating the allegations and grounds contained in the O.A., the applicant filed his rejoinder. That is how we are seized of the matter.

8. Having heard learned counsel for the parties, having gone through the record, with their valuable help, and after considering the entire matter, we are of the firm view that the instant O.A. deserves to be partly accepted, in the manner, and for the reasons, mentioned herein below.

9. What cannot possibly be disputed here, is that the applicant was permitted to voluntarily retire w.e.f. 01.02.2016 vide letter dated 29.01.2016 (Annexure R-6), by the Competent Authority. Instead of releasing the regular pensionary benefits, provisional pension was released in favour of the applicant, by the Competent Authority. However, the main plea to deny the benefit of regular

pensionary benefits to the applicant, as projected by the respondents, was the pendency of vigilance inquiries, against him, as mentioned in the letter (Annexure R-5). 4 out of 5 complaints were stated to have already been filed, whereas only one complaint mentioned at Sr. No. 2 of letter (Annexure R-5) is stated to be pending, which pertains to the year 2011.

10. Meaning thereby, the only complaint, standing in the way of the applicant, for non-release of his regular pensionary benefits, is the complaint dated 09.07.2011. It is now well settled principle of law that the pension is the hard earned money of an employee and it should not be treated as a bounty, payable on the sweet will & pleasure of the Government. So, it cannot be denied indefinitely to the applicant, in the garb of the pointed complaint.

11. Therefore, to our mind, it would be expedient in the interest and justice would be sub-served, if the Competent Authority is directed to take a final view of the pending complaint/complaints, against the applicant, keeping in view the statutory provisions of Rule 2.2 (b) of Punjab Civil Service Pension Rules, within a reasonable period, and then to decide the case of the applicant, for grant of regular pensionary benefits, even as acknowledged by the learned counsel for the parties.

12. In the light of the aforesaid prismatic reasons, the present O.A. is partly accepted. The Competent Authority is directed to finally decide the indicated pending vigilance complaint(s), keeping in view the statutory rule 2.2(b) of Punjab Civil Service Pension Rules and in accordance with law, within a period of two months from the date of receipt of certified copy of this order, and then to decide his case of release of regular pensionary benefits, within a

period of one month thereafter positively. However, the parties are left to bear their own costs.

(P. GOPINATH)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Dated: 28.11.2017

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