

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.952 of 2015

Cuttack this the day of August, 2018

CORAM:

HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Pradeep Kumar Mishra, aged about 40 years, S/o. Late Dinabandhu Mishra, resident of Plot No.1160/1247, Khanagiri Bari, PS-Khandagiri, Bhubaneswar-30, Dist-Khurda – at present working as Asst. Personnel Officer, NISER, Bhubaneswar.

...Applicant

By the Advocate(s)-M/s.N.R.Routray

T.K.Choudhury

Smt.J.Pradhan

S.K.Mohanty

-VERSUS-

Union of India represented through:

1. The Director General (Post), Dak Bhawan, Parliament Street, New Delhi-110 001.
2. Chief Post Master General, Odisha Circle, Bhubaneswar-751 001, Dist-Khurda.
3. Sr.Supt. of Post Offices, Bhubaneswar Division, Bhubaneswar.
4. Director of accounts (Postal), Daklekha Bhawan, Mahanadi Vihar, Cuttack-753 004.
5. Senior Accounts Officer, Office of the Director of Accounts (Postal), Daklekha Bhawan, Mahanadi Vihar, Cuttack-753 004.
6. The Secretary to Govt. Of India, Ministry of Personnel, P.G. and Pensions, Department of Pension & Pensioners' Welfare, New Delhi-110 003.
7. The Director, National Institute for Scientific and Education Research, Institute of Physical Campus, Sachivalaya Marg, PO-Sainik School, Bhubaneswar-751 005, Dist-Khurda

...Respondents

By the Advocate(s)-Mr.J.K.Nayak

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant was working as Assistant Personnel Officer in National Institute for Scientific & Education Research (NISER) at the time of filing the O.A. On being selected for the post of Assistant Personnel Officer in the NISER

the applicant had tendered his technical resignation on 12.9.2012 from the post of Postal Assistant in the GPO, Bhubaneswar. While tendering the technical resignation, he had made a request for retention of his lien at least for one year with the Department of Posts and to disburse the retirement benefits as admissible upto the termination of his lien (A/3). Vide order dated 28.9.2012, the technical resignation of the applicant was accepted by the Senior Superintendent of Post Offices, Bhubaneswar Division (Res.No.3). On 31.3.2004, SSPO, Bhubaneswar Division (Res.No.3) passed an order that since the applicant's lien period of one year has elapsed from 2.10.2013 his technical resignation was to be accepted with effect from 2.10.2013 with vacation of lien as per the provisions in the relevant rules (A/6). The applicant applied for pensionary benefits and was given DCRG amount to the tune of Rs.1,63,228/- on 27.9.2016 and other retirement benefits in the month of October, 2016. On 20.5.2015, Senior Accounts Officer (Pension) had written a letter to the SSPO which reads as follows:

“Sub: Pension Case of Sri Pradeep Kumar Mishra, Ex-Postal Assistant:
Ref: Your Letter No.C/1-532/2014 dated 26.03.2015:

Permanent transfer of Central Government servants to Central Autonomous Bodies is guided by provisions contained in DoP & PW OM No.4(12)/85-P& PW dated 31.03.1987 read with DoP&T OM No.28016/5/85-Estt.(C) dated 31.01.1986. Those absorbed in Central Autonomous bodies having Pension Scheme shall have an option to receive pro rata benefits or continue to have the benefit of combined service under the Government and Autonomous Body. Such option is required to be exercised within six months from the date of permanent absorption. In case no option is exercised within the stipulated period, he will be eligible for pension based on combined service.

As the option has been exercised beyond the permissible period, the Ex-official may be allowed the benefit of combined service under the Government and the Central autonomous Body.

The Service Book and Leave Account of Sri Mishra is returned herewith for further disposal.

These issues with approval of the Competent Authority".

2. On 21.7.2015, the SSPO(Res.No.3) had informed the applicant that he may continue to have the benefit of the combined service under the Government and the Central Autonomous Body. However the applicant submitted representations to the Director General of Posts, New Delhi (Res.No.1), CPMG, Orissa Circle Bhubaneswar(Res.No.2) and Secretary DOP&T (Res.No.6) mentioning that as he was being governed by the Old Pension Scheme prior to joining NISER and had completed more than 10 years of continuous service, he is eligible for pro rata retirement benefits from the Postal Department and NISER being a Central Government Autonomous Body is having a new Pension Scheme for its employees and therefore, the question of availing combined service benefits does not arise in his case. In the said representation he prayed for grant of pro rata retirement benefits like monthly pension, gratuity, leave encashment and group insurance scheme along with the arrear for the period he had worked in the Postal Department. On 10.11.2015 the Office of the CPMG informed that the official (applicant) had already been informed vide letter dated 21.7.2015 that he may continue to have the benefit of combined service under the Government and Central Autonomous Body. On 18.3.2016, SSPO, Bhubaneswar Division (Res.No.3) passed the following orders.

"The resignation of Sri Pradeep Ku.Mishra was accepted by the competent authority in consideration of the application with immediate effect vide this office memo of even no. Dtd. 28.09.2012 granting lien for one year.

That pursuant to DA(P), Cuttack memo no.Pen.III/C-I/LSPC/Vol.I/R2474 dtd. 23.06.2014, the lien is not maintainable as per the provision in relevant Rules.

In this context, the undersigned hereby cancels the lien granted for one year vide this office memo of even no. Dtd. 28.09.2012".

3. Aggrieved by this, the applicant has filed this O.A. praying for the following reliefs:

- i) To quash the letter dtd. 20.05.2015 & letter dtd. 21.07.2015 under Ann.A/9 series and order of disposal of the representation vide email dtd. 10.11.2015 under Ann.A/14;
- ii) And to declare the order dtd. 18.03.2016 under Ann.A/15 as nonest in the eye of law.
- iii) And to direct the Respondent No.1 to 5 i.e., the postal authorities to sanction and disburse prorata pension/pension, gratuity, leave encashment, GIS benefits, with cumulative effect, as admissible under Rules;
- iv) And to direct the respondent No.1 to 5 to pay interest on the pensionary benefits @ 18% per month from the due date to till the actual date of disbursement and cost.

And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice".

4. During the pendency of this O.A., the applicant was given DCRG amount to the tune of Rs.1,63,228/- on 27.9.2016 and the other retirement benefits were sanctioned in the month of October, 2016. During the course of arguments, the applicant therefore, restricted his prayer to Para-8(iv) for payment of interest on the pensionary benefits received by him.

5. The respondents in their counter have dealt with the issue of grant of pensionary benefits. However, since the pensionary benefits have already been paid, the applicant's prayer is to that extent no longer res integra. The aspect of payment of interest has not been dealt with by the respondents in their counter. Respondents in Para-3 of the counter filed on 19.5.2017 have stated as follows:

"3. That it is humbly submitted that the applicant is not entitled for any relief as claimed for due to the reasons stated hereunder".

6. In the rejoinder applicant has prayed for a direction for payment of 18% interest on the entire amount for the delayed period of payment of pension which synchronises with the prayer clause at 8(iv) of the O.A.

7. The matter was argued by both the learned counsels on 30.7.2018 and was reserved for orders. In the written notes of submission filed by the applicant, he has cited the case laws to support his argument that the judicial pronouncements go in his favour for payment of interest on delayed payment of pensionary benefits. However, after hearing the learned counsels from both the sides and going through the documents submitted by them, I am of the opinion that the major part of the reliefs prayed for has been granted by the Postal Department and the applicant's prayer is now restricted only to payment of interest which has not been dealt with by the respondents comprehensively either in the counter or in the written notes of submission filed by them except mentioning that the applicant was equally responsible for the delay in the settlement of his retirement dues and had prevaricated on the issue of lien which led to confusion on deciding his prayer for pension. This averment is not sufficient as a rebuttal to the legal position claimed by the applicant. I am of the view that without going into the details of the legal entitlement of the applicant for payment of interest as permissible under the rules, it is not possible to apply the case law cited by the applicant at this stage. Therefore, in my considered view, the applicant should submit a representation on the issue of payment of interest on the delayed payment of retirement benefits giving clear details of his entitlement and the disbursement and the legal position. He may do so within a period of four weeks and once the representation is filed, the respondents should examine

the points raised by him in terms of extant rules and judicial pronouncements and take an appropriate decision within a period of 12 weeks from the date of receipt of the representation .

8. The O.A. is disposed of as above with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

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