



**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CALCUTTA BENCH  
KOLKATA**

O.A.No. 1529 of 2013

Date of hearing: 01/08/2016  
Date of Order : 05/08/2016

*Present:*

*The Hon'ble Mr Justice Vishnu Chandra Gupta, Judicial Member  
The Hon'ble Ms Jaya Das Gupta, Administrative Member*

.....  
Dr. A.K.Raychaudhuri, son of Late Jiban Krishna Raychaudhuri, aged about 62 years by occupation retired person of P-165, Unique Park, Behala, Kolkata-700 034.

.....Applicant

-Versus-

1. Secretary, Ministry of Mines, Government of India, Shastri Bhavan, New Delhi-110011.
2. Director General, Geological Survey of India, 27 J.Nehru Road, Kolkata-700 016.
3. Union of India service through the Secretary, Ministry of Mines, Government of India, Shastri Bhavan, New Delhi-110011.

.....Respondents

For the Applicant : Mr.S.Roychoudhury  
Mr. K.Chakraborty, Counsel  
For the Respondents : Mr.S.K.Ghosh, Counsel

**ORDER**

**JUSTICE V.C.GUPTA, JM:**

Heard Mr. S.Raychoudhury, the learned Senior Counsel, assisted by Mr. K.Chakraborty, the Learned Counsel, appearing for the Applicant and Mr. S.K.Ghosh, the learned Counsel appearing for the Respondents and perused the records.

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2. The Applicant (A.K.Raychaudhuri) has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a) The Respondents be directed to forthwith pay interest on all sum fallen due and payable to the applicant on the date of superannuation on 31.01.2011 till the day of making actual payment to the applicant at the rate of 24% per annum by a single cheque within a particular period of time to be specified by the learned Tribunal.

b) compensation of rupees one crore tentatively at the first instance to be paid to the applicant by the respondents owing to committing constitutional tort by causing deliberate infringement of the right to dignity of the applicant by initiating a malafide departmental proceeding, putting the applicant in a deliberate state of ruination and then in dropping the charges;

c) Cost or costs incidental thereto."

3. The facts, in brief, are that the applicant joined the Geological Survey of India (in short 'GSI') on 27.01.1978. He was subjected to a departmental proceedings under Rule 14 of the CCS (CCA) Rules, 1965 vide Memo dated 14<sup>th</sup> May, 2010. On 20.07.2010, he was transferred from Kolkata to Patna where he joined as Director just before six months from the date of his superannuation from service which had taken place on 31.01.2011. The Inquiry Officer was appointed who conducted the enquiry on 29.10.2010, 30.11.2010 and 14.12.2010. But during the pendency of the enquiry, the Applicant retired from service on 31.01.2011. In letter dated 3<sup>rd</sup> July, 2012, the applicant was intimated that the competent authority has decided to drop the charges. Thereafter, in October, 2012, the Applicant was paid his regular pension but the other terminal benefits were not

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granted to him at that relevant point of time. However, the terminal benefits were paid on 13.06.2013 but no interest for the delayed disbursement of the terminal benefits was granted to him. He submitted a representation to the Secretary, Ministry of Mines, and Government of India on 30.09.2013. It is the case of the Applicant that he was purportedly proceeded with the departmental proceedings with a deliberate and mala fide intention to put him in a deliberate state of disaster and ruination. The charges levelled against him was mala fide and without jurisdiction. The payment of interest for the delayed payment is a matter of course and, as such, the applicant was entitled to interest for the delayed payment of terminal benefits; as he was entitled to the terminal benefits on the date of his superannuation i.e. on 31.01.2011 but in fact he was paid the same only on 13<sup>th</sup> June, 2013. Hence, according to the Applicant, he was entitled to interest from the date of his superannuation i.e. on 31<sup>st</sup> January, 2011 till the date of payment i.e. 13<sup>th</sup> June, 2013; specially when the Government had utilized the money belongs to the applicant the Government is bound to pay the interest at the rate of 24% per annum which is the prevalent rate of interest in Commercial Bank for granting loans. As such, applicant is entitled to the interest as claimed in this OA along with the amount of compensation.

4. Counter affidavit has been filed by the Respondents in which it has been stated that the delay in payment of the terminal benefits were not intentional or deliberate but for the reason of the

departmental proceedings initiated against the applicant. The Respondents have referred to Rule 68 of CCS Pension Rules GOI decision to the extent that to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, interest on delayed payment of retirement gratuity can be allowed in accordance with the instructions. A supplementary affidavit has been filed on 06.01.2015 disclosing therein that interest had been paid as per rules. The amount of gratuity was determined as Rs. 5, 83, 106/- and interest @ 8%, 8.6% & 8.8% was allowed till January 2013. It has been stated that as the applicant has been paid the interest the applicant can have no claim in this respect.

In so far as the claim of compensation is concerned, it has been stated that in view of Section 3(q) and Section 14 of the Administrative Tribunals Act, 1985, award of compensation does not fall within the ambit of service matter and as such, is not cognizable by the CAT. For ready reference, section 14 of the A.T. Act, 1985 and section 3(q) defining service matter are quoted herein below:

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal.---(1) save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to --

(a) recruitment, and matters concerning requirement, to any all service of the Union or a civil post under the Union or the post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

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(b) all service matters concerning-

(i) a member of any all-India Service; or

(ii) a person not being a member of an all-India Service or a person referred to in clause (c) appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control or the Government of India or of any corporation for society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.

The expression "service matters" occurring both in Section 14 and Section 28 is defined in clause (q) of Section 3 in the following words:

"Service matters', in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any Local or other authority within the territory of India or under the control of

the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects--

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or

(v) any other matter whatsoever."

5. According to the learned Senior Counsel appearing for the Applicant, the jurisdiction of this Tribunal is akin to the jurisdiction under Article 226 of the Constitution. Hence in case of violation of fundamental rights and right to life with dignity, this Tribunal can award appropriate amount towards compensation against the employer to be paid to the harassed employees. In this connection, the learned Senior Counsel appearing for the applicant relied upon the decision of the Hon'ble Apex Court rendered in the case of **Sushil Ansal v State through CBI**, dated 5<sup>th</sup> March, 2014; in Criminal Appeal No. 597 of 2010. On the strength of this decision, it has been argued that law is uncodified but the doctrine of constitutional tort is equally applicable against the State and as such for the tortuous act of the employees of the state, the affected person may claim compensation from the State and this is a fit case where compensation is liable to be awarded against the employer as the applicant was harassed and mentally tortured due to initiation of departmental proceedings which was dropped after his retirement

without assigning any cogent reason and was transferred to Patna at the fag end of his service career.

6. We have considered the rival submissions of the respective parties and perused the records.

7. The question of awarding compensation by the CAT for the alleged harassment of the employees was the subject matter of consideration before the Hon'ble Apex Court in the case of **Dr. H.Mukherjee v S.K.Bhargava** reported in (1996) 4 Supreme Court Cases 542. The Hon'ble Apex Court took note of the provision enshrined in Section 14 of the A.T.Act, 1985 as also 3 (q) and came to the following conclusion in para 7 which is quoted herein below for ready reference:

"7. The Tribunals under the Act are thus conferred with the exclusive jurisdiction, powers and authority exercisable immediately before the appointed day by all Court [except the Supreme Court] in relation to the matters set out in clauses (a), (b) and (c) of subsection (1) of Section 14. The question is the present suit does fall under any of the said clauses. We do not think that it does. The suit appears to be one based on alleged tortuous acts of the defendant committed with a view harass the plaintiff and cause him mental pain and injury. At this stage, it is not our province to say that whether the allegations are true or false. We have to take the plaint allegations as they stand. We also assume for the purpose of this appeal that such a suit does lie according of law since no contention the contrary has been urged for us nor was urged before the civil court or High Court. This is a pure action for damages for deliberately harassing the plaintiff by passing several vindictive and malafide orders and proceedings and also by fabricating official records. **Such a suit for damages is**

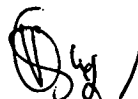
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**certainly not within the province of Section 14."**

(Emphasis added)

8. By applying the aforesaid principle of law, decided by the Hon'ble Apex Court, question of awarding compensation by the Tribunal is held to be beyond jurisdiction of this Tribunal. Accordingly, the relief for awarding compensation for the alleged harassment is accordingly dismissed.

9. So far as relief No.1 is concerned, the learned counsel strenuously argued that as the delay in disbursement of the terminal benefits was intentional and deliberate, the applicant is entitled to interest from the date of his superannuation till the actual payment is made. From the record, it reveals that interest, on the gratuity amount, was paid to the applicant from May, 2011 till January, 2013. It is not in dispute that the applicant was fully exonerated in the disciplinary proceedings and, thereby, was entitled to gratuity which was paid belatedly. The Respondent in paragraph 6.7 of the reply have stated that Bill of an amount of Rs. 5, 83,106/- towards gratuity of the applicant was sent to PAO on 05.02.2013 and the Demand Draft from PAO was received on 01.03.2013 and sent to the applicant on the same day. However, proof of sending the DD by the Department has not been brought on record. On the contrary, the applicant stated that he received the terminal benefit only on 13<sup>th</sup> July, 2013 but no proof has been filed by the applicant in support of the receipt of the aforesaid amount on 13<sup>th</sup> July, 2013. Be that as it



may, we find that there was delay in disbursement of the amount to which the applicant was entitled to interest under Rules. Hence, we are of the considered view that the applicant was entitled to interest on the gratuity from 1<sup>st</sup> February, 2011 to at least till 30<sup>th</sup> April, 2013.

So far as the rate of interest is concerned, we find that there is a provision for payment of interest on the delayed payment of the terminal benefits. As is evident from the supplementary affidavit, the respondents have themselves paid interest at the rate of 8%, 8.6% and 8.8%. As the same was in accordance with rules, we do not want to interfere with such rate of interest which is statutory.

10. In view of the discussions made above, we are of the view that this OA is liable to be allowed in part. The Respondents are hereby directed to pay interest on the gratuity commencing from 1<sup>st</sup> February, 2011 till 30<sup>th</sup> April, 2013 in accordance with the rate of interest applicable on the delayed payment of gratuity, after adjusting the amount already paid towards interest to the Applicant within a period of one month from the date of receipt of a certified copy of this order.

11. Resultantly, this OA is accordingly disposed of. No costs.

(Ms. Jaya Das Gupta)  
Administrative Member

(Justice V.C. Gupta)  
Judicial Member