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O.A-350/00450/2017

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BEFORE THE LD. CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

Arvind Mohan Sahay

son of Late Inderdev Sahay, aged about 59

years, by occupation retired service-holder, ex-Commissioner of Central

Excise, Central Excise-II, Kolkata, having residence at 601, B Wing, Tulsi Niwas,

Opposite B.M.C. Office, Santacruz (East), Mumbai 400 055 and also at 2D, Tower

15, SANKALPA 4, New Town, Calcutta 700 0156

..... Applicant

- Versus -

1. The Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi - 110 001;

2. The Chairman

Arvind Mohan Sahay
Vd

Central Board of Excise & Customs,

Department of Revenue, Government of

India North Block, New Delhi 110001

3. The Chief Commissioner of

Central Excise, Kolkata, Central Excise

Bhawan, 180, Rajdanga, Main Road,

Kolkata 700 107

..... Respondents

W.H.

O.A.No.350/00450/2017

Date of order :13.04.2017

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the applicant : Ms. M. Roy, counsel

For the respondents : Mr. P.N. Sharma, counsel

ORDER(ORAL)

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 challenging the failure of the respondent authorities to disburse the retiral benefits of the applicant (leave encashment, gratuity, commuted pension, arrear upon regularisation of suspension period and other accumulated dues) on his compulsory retirement w.e.f. 18.03.2016 under Rule 56(j) of the Fundamental Rules.

2. The applicant has approached this Tribunal seeking the following reliefs:-

"8(a) Direction do issue directing the respondent authorities to release and disburse full retiral benefits i.e. pension, gratuity, leave salary, commutation of pension and other accumulated dues taking into account the revision of salary under 7th Pay Commission effective from 01.01.2016 including regularization of the suspension period and arrears thereon together with interest at the rate of 18% per annum on all such arrear accumulations from the date of entitlement till the date of payment thereof;

(b) Direction do issue upon the respondent authorities directing them to produce and/or cause to be produced the entire records of the case and upon such production being made to render conscionable justice by passing necessary orders thereon;

(c) Cost and costs incidental hereto;

(d) And/or to pass such other or further order or orders as to your Lordships may seem fit and proper"

3. I have heard Ms. M. Roy, Id. counsel for the applicant and Mr. P.N. Sharma, Id. counsel for the respondents.

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4. Id. counsel Ms. M. Roy appearing on behalf of the applicant submitted that the applicant was given order for compulsory retirement by the respondents which cannot be treated to be a misconduct and he is entitled to all the retirement benefits as per rules as admissible to an employee who retires from service on attaining superannuation. Ms. Roy submitted that the applicant has preferred a series of representations (Annexure A/5 to the O.A.) to the authorities ventilating his grievances therein, but received no reply from the respondents. Ms. Roy prays for release of gratuity and leave salary etc. in favour of the applicant forthwith on the ground that such benefits are granted to an employee as per rules even when he/she is given punishment of dismissal or removal from service.

5. On the other hand, Mr. P.N. Sharma, Id. counsel for the respondents submitted that the applicant had earlier approached the Principal Bench of C.A.T. and subsequently the matter was carried to the Delhi High Court also, therefore, he cannot pray for readjudication of the matter and accordingly this Tribunal lacks jurisdiction to entertain this O.A. He further submitted that this O.A. is also not maintainable being hit by Section 20 of the Central Administrative Tribunals (Procedure) Rules.

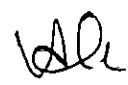
6. I have considered the rival contentions advanced by the Id. counsel for both sides. Right to know the result of the representation that too at the earliest opportunity is a part of compliance of principles of natural justice. The employer is also duty bound to look to the grievance of the employee and respond to him in a suitable manner, without any delay. In the instant case, as it appears, though the applicant submitted representations to the authorities ventilating his grievances, he has not received any reply till date.

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7. It is apt for us to place reliance on the decision of the Hon'ble Supreme Court of India in the case of **S.S.Rathore-Vrs-State of Madhya Pradesh, AIR1990** SC Page 10 / 1990 SCC (L&S) Page 50 (para 17) in which it has been held as under:

"17.Redressal of grievances in the hands of the departmental authorities take an unduly long time. That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be deprecated and authorities on whom power is vested to dispose of the appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible. Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation."

8. Considering the aforesaid facts and circumstances, I do not think that it would be prejudicial to either of the sides if a direction is issued to the respondents to consider and decide the representation of the applicant. As appears from the record, the applicant made his last representation to the Revenue Secretary, Ministry of Finance, Government of India on 07.03.2017(Annexure A/5, page 40 of the O.A.) ventilating his grievances therein. Accordingly the Respondent No. 1 i.e. the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi is directed to consider and dispose of the said representation of the applicant, if pending consideration, by passing a well reasoned order as per rules and intimate the result to the applicant within a period of three months from the date of receipt of a copy of this order. If the representation has already been disposed of in the meantime, then the result be communicated to the applicant forthwith. After such consideration if the applicant is found entitled to the reliefs as claimed, then expeditious steps may be taken by the respondents to grant the same within a further period of three months from the date of taking decision in the matter.



9. It is made clear that I have not gone into the merits of the case and all the points raised in the representation shall remain open for consideration by the respondent authorities as per rules and guidelines governing the field.

10. As prayed by Ms. Roy, a copy of this order along with the paper book may be transmitted to the Respondent No.1 by speed post by the Registry for which Ms. Roy undertakes to deposit the cost within a week.

11. With the above observations the O.A. is disposed of. No order as to cost.

(A.K. Patnaik)
Judicial Member

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