

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 20/1108/2018

**Reserved on: 21.02.2019
Pronounced on: 22.02.2019**

Between:

K. Anjaneyulu (Group C),
S/o. late Ankammarao, aged 60 years,
Retd. LSG Sub-Postmaster- Valaparla,
At Flat No. 404, Srikar Enclave, Etukur Road,
Guntur – 522 003, Andhra Pradesh.

... Applicant

And

1. The Union of India, Rep. by its Secretary,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi – 110001.
2. The Chief Postmaster General,
Andhra Pradesh Circle, Vijayawada -520003.
3. Sr. Superintendent of Posts,
Prakasam Division, Ongole – 523001.
4. Superintendent – Posts, Guntur Postal Division,
Guntur – 522 007, Guntur District.
5. Director of Accounts, Postal Wing,
AP Circle, Abids, Hyderabad – 500 001.

... Respondents

Counsel for the Applicant ... Mr. K. Siva Reddy

Counsel for the Respondents ... Mr. B. Siva Sankar, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicant has filed the OA as he was not paid monthly pension/terminal benefits after he retired from service.

3. Brief facts of the case are that the applicant has joined the respondents organization on 01.09.1975 and retired on 31.05.2018 as Lower Selection Grade (LSG) Sub-Postmaster. Even after six months of retirement, the applicant was not granted pension and other pensionary benefits excepting retirement gratuity. The applicant represented to the 2nd respondent for payment of pension and pensionary benefits, but it was in vain. Applicant having been promoted to the post of Lower Selection Grade before retirement, is an indication that there are no departmental or judicial proceedings against him. Despite scenario being so, holding back the pension and pensionary benefits has put the applicant into severe economic distress. Therefore, the OA.

4. The contentions of the applicant are that there is no disciplinary case pending against him. Respondents denying pension and other pensionary benefits is irregular and illegal. The very fact that the applicant raised to the level of LSG post reaffirms the fact that the applicant has a clean record. Action of the respondents is against the Hon'ble Supreme Court observations in Dr. Uma Agarwal Vs. State of UP, AIR 1999 SC 1212 and State of Kerala Vs. M. Padmanabhan Nair, AIR 1985 SC 356. Hon'ble Apex Court has observed on quite a few occasions that it is obligatory on the part of the respondents to pay the pension every month from the date of retirement.

5. Respondents refute the contentions of the applicant by stating that the applicant while working in Guntur Postal Division as Savings Bank Counter PA at Guntur Collectorate Sub Office from 08.08.2007 to 27.02.2009 has discharged two KVP (Kisan Vikas Patra) certificates of Rs.10,000/- denomination each, but failed to note the discharge particulars and also failed to round off the Regn. numbers of KVP certificates on the KVP application kept in the guard file as

required under the relevant rules. By not doing so, KVP investor applied and obtained duplicate KVP certificates which were encashed resulting in double discharge of the same certificate on 09.02.2017 for a value of Rs.43,720/-. The said double discharge was detected on 24.04.2017. Applicant was found responsible for such double discharge as he failed to discharge his duties as prescribed under the rules. However, when he was approached to give an undertaking for repaying the double discharge amounts noticed in future with penal interest, if, after due investigation, he is found fault, in order to release the terminal benefits, applicant flatly refused to give an undertaking. In view of the refusal, respondents could not issue a no due certificate for processing the pension and pensionary benefits. Cent percent verification of the transactions of the concerned post office has been undertaken and is under process. Disciplinary action is contemplated against the applicant for the cited lapse. Till investigation is done, it may not be feasible to release the terminal benefits to the applicant as there is loss to the public exchequer.

6. Heard learned counsel for both sided and perused the documents submitted.

7(I) Respondents after detecting double discharge of KVP certificates have withheld pension and pensionary benefits of the applicant. When the case came up for hearing before this Tribunal on 20.11.2018, an interim order was issued to release the monthly pension. This was complied with by the respondents. Other terminal benefits like leave encashment, commutation of pension, etc. have not been released. Respondents claim that investigation is still on and therefore, it is not possible to release the terminal benefits. As seen from the details of the case, double discharge of KVPs took place when the applicant was working in Guntur Collectorate Sub Post Office during the period from

08.08.2007 to 27.02.2009. The irregularity surfaced on 24.04.2017. As on date, nearly two years have lapsed and still the respondents claim that they are verifying the details. With the respondents organization being totally computerized, verifying double discharge of KVP certificates should not take much time. Even after lapse of nearly two years, respondents claiming that they are still verifying the details is surprising. Amount involved is Rs.43,720/- and against the said amount, the respondents withholding terminal benefits of the applicant to the tune of a few lakhs of rupees is an egregious violation. The proper course of action would have been for the respondents to deduct the amount involved i.e. Rs.43,720/- from the terminal benefits of the applicant and release the rest. Thereafter, discharge the same based on the outcome of the investigation by taking disciplinary action as per relevant rules, if he was found responsible and if not, release the amount. Respondents did not do so. This tantamount to catastrophising the situation. However, the respondents have made an attempt advising the applicant to give an undertaking to repay the amount in question with interest if he were found to be responsible after due investigation, so that release of terminal benefits could be considered. Applicant was defiant to give an undertaking. As a result, terminal benefits could not be released. In a way, the applicant is also responsible for the delay. Had he given an undertaking, the issue would have been settled. It is not out of place to state that the respondents organization is dealing with public money which has been deposited with them in great trust. Such trust cannot be belied by negligence in following the laid down rules. With computerization of the post offices, respondents could have expedited resolution, which we find is woefully lacking.

II. Nevertheless, reverting to the core issue, respondents by not releasing the terminal benefits have put the applicant to economic distress. The Hon'ble Supreme Court did observe that pension is not a bounty, but it is right of an employee akin to the right to property. Action of the respondents in not releasing the pension was illegal. Nevertheless, with the intervention of this Tribunal, monthly pension was released. Similarly, the other terminal benefits should have been released after deducting the amount of Rs.43,720/- towards double discharge of KVPs. Respondents did not appreciate the signal emerging from the interim order. Further, investigation appears to be going on at a gingerly pace. Delay on the part of the respondents should not put the applicant to undue mental agony for years together. Hon'ble Supreme Court has observed that the mistake of the respondents should not recoil on the employee and make him suffer. Hon'ble Supreme Court in the case of *Nirmal Chandra Bhattacharjee v. Union of India, 1991 Supp (2) SCC 363* has held that ***“The mistake or delay on the part of the department should not be permitted to recoil on the appellants.”*** Even in ***Union of India vs. Sadhana Khanna, C.A. No.8208/01***, the Apex Court has held that the mistake of the department cannot be permitted to recoil on employees. In yet another recent case of ***M.V. Thimmaiah vs. UPSC, in C.A. No. 5883-5991 of 2007*** decided on 13.12.2007, it has been observed by the Hon'ble Supreme Court that if there is a failure on the part of the officers to discharge their duties the incumbent should not be allowed to suffer. Respondents need to be sensitive in this regard, particularly in the context of the retirement of the applicant after putting in decades of service with the respondents organization.

III. Applicant has claimed interest for the delay in payment of the terminal benefits quoting the judgment of the Hon'ble Supreme Court. In the present case, the delay in release of the terminal benefits was also because of the fault of the applicant. The records do indicate that there has been a double discharge of KVPs and as a result, a sum of Rs.43,720/- was paid. It needs to be verified as to whether other such transactions have been done as per rules. Nevertheless, when the applicant was asked to give an undertaking for considering release of the terminal benefits, he has refused to do so. Hence, it cannot be stated that the respondents are solely responsible for the delay in release of the terminal benefits. Therefore, the request of the applicant for grant of payment of interest on the delayed release of the terminal benefits cannot be considered. In the case cited by the applicant, the Hon'ble Supreme Court held that interest is payable if the respondents are solely responsible for the delay. If the applicant were to do his duty as enjoined in the rules without any neglectfullness, this situation would not have arisen.

IV. Therefore, to uphold justice, respondents are directed to consider as under:

- i) to release regular pension and terminal benefits due to the applicant within a period of 30 days from the date of receipt of this order.
- ii) while releasing the terminal benefits as at (i) above, a sum of Rs.43,720/- may be deducted towards double discharge of KVP certificates.
- iii) the respondents to complete investigation within five months from the date of receipt of this order.

iv) If the applicant is found guilty after due investigation, necessary action may be taken to adjust the amount deducted and any other amounts due to dereliction of duty by proceeding against the applicant under relevant Rules. In case, respondents fail to complete the investigation within the stipulated period, amount deducted be released to the applicant.

V. With the above directions, the OA is allowed. There shall be no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 22nd day of February, 2019

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