

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3983/2018

**Reserved on : 29.04.2019.
Pronounced on :07.05.2019**

Hon'ble Mr. Mohd. Jamshed, Member (A)

Kochurani Mathew, Staff Nurse (Retired)
Aged about 53+ years, Wife of Mr. V.J. Mathew
Retired from : Hindurao Hospital,
North Delhi Municipal Corporation
Resident of: Chathimattathil House, Vakkode Colony
Kalladikode, Post Office: Palakkad District
Kerala. Applicant

(By Advocate: Shri Pradeep Kumar)

Versus

1. North Delhi Municipal Corporation
[Service to be effected upon/through its:
Commissioner, At: Dr. S.P. Mukherjee
Civic Center, Minto Road
New Delhi : 110 002].
2. Hindurao Hospital
[Service to be effected upon/through its:
Medical Superintendent, at:
Bara Hindurao, Delhi : 110 007]. Respondents

(By Advocate : Sh.M.S. Reen)

O R D E R

The applicant has filed this OA seeking the following reliefs :-

- a) Direct Respondents to immediately release/pay to the Applicant her unpaid, service gratuity, commutation of pension with simple interest @ 12% per annum, with all consequential reliefs and benefits;
- b) Direct Respondents to immediately release/pay to the Applicant her unpaid, due difference/arrear of ad-hoc bonus for the year 2014-2015, pro-rata ad-hoc bonus for the year 2016-2017 and also unpaid arrear of 7th CPC up to September, 2018 with simple interest @ 12% per annum, with all consequential reliefs and benefits;
- c) Direct Respondents to immediately release/pay to the Applicant simple interest @ 12% per annum on her delayed payment of earned leave encashment for the period of delay beyond

retirement date and also on pension for the period from Feb.2017 to November, 2017 till the date of their payment i.e. 23.06.2017 and 02.01.2018 respectively with all consequential reliefs and benefits;

- d) Costs of this Application may also be granted to the Applicant;
- e) pass any such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case to grant complete relief to the Applicant."

2. The relief(s) sought are primarily for payment of pending dues, withholding service gratuity, commutation of pension with interest, payment of bonus arrears in view of 7th CPC recommendations and interest on the delayed payments.

3. The applicant was Staff Nurse Grade 'A' in Hindu Rao Hospital under North Delhi Municipal Corporation. After rendering the qualifying service of around 24 years, she took voluntary retirement which was accepted by the respondents vide order dated 27.01.2017 effective w.e.f.31.01.2017.

4. As stated in the OA, the applicant was paid dues towards Group Insurance Scheme, Earned Leave Encashment, Group Transport Allowance, GPF and also the pension between 03.05.2017 to 02.01.2018. Although the respondents implemented recommendations of 7th Central Pay Commission w.e.f.01.01.2016 for their employees, the applicant has not been paid the due arrears. The applicant has been denied the payment of said amount by the respondents due to some financial crunch in NDMC. Despite the fact that various payments including the pension have already been released, the applicant had not been paid all the retiral dues. The information sought through RTI revealed that due to financial crunch in North Delhi Municipal Corporation, it has not cleared 7th CPC arrears due to its employees. As far as bonus is concerned, the applicant has claimed bonus for three

years for which orders have already been passed but the amount of the bonus has not been paid. A detailed representation was made by the applicant on 13.06.2018. However, respondents have not given any reply to the representation. The applicant has further sought information under RTI which has been made available vide letter dated 18.07.2018 which indicates that whereas certain retiral dues have already been paid to the applicant, the payment of arrears on account of recommendation of 7th CPC and the bonus due to her for three years have not been paid by respondents as yet. The reasons given by the NDMC are that these payments are not being made to any of its employees due to financial crunch. The respondents, vide their brief counter reply, indicated that payment of gratuity and commutation of payment have been made to the applicant. As far as arrears of pay fixation of 7th CPC and bonus are concerned, such payments have not been made to any of the employees of Corporation in view of financial crunch in the NDMC. Applicant has also not been paid any interest on delayed payments.

5. Learned counsel of the applicant relied upon judgment of Hon'ble High Court of Delhi in Writ Petition No.(C) 5502/2012 in connection with payment of interest on delayed payment. The Hon'ble High Court passed the following order in this regard, which is as under :-

"3. This issue of interest on delayed payment of retiral dues is no longer debatable before this Court in view of the several decisions taken on this subject. Two of the said decisions are:-

(i) [Government of NCT of Delhi v. S. K. Srivastava](#):

WP(C)1186/2012 decided on 29.02.2012; and

(ii) [Delhi Police v. Balwant Singh](#): WP(C) 1227/2012 decided on 13.03.2012,

wherein this Court clearly held that interest on delayed payment of retiral dues, such as leave encashment amount and delayed payment of pension, would be allowable to the retiring employee. This Court had also placed reliance on the Supreme Court decision in the case of Vijay L. Mehrotra v.

State of U.P. and Others: JT 2000 (5) SC 171.

4. Consequently, following the said decisions, we find that the view taken by the Tribunal is in accordance with law. The writ petition is dismissed. However, the petitioner is granted four weeks' time to make the said payment of interest at the GFP rate."

6. In Writ Petition (C) No. 1227/2012 passed by the Hon'ble High Court of Delhi relevant paras are as under :-

"3. In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.

4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay the appellant within 12 weeks from today simple interest at the rate of 18% per cent with effect from the date of her retirement i.e. 31st August, 1997 till the date of payment."

7. Reliance has also been placed by the applicant on recent order of this Tribunal in OA No.3263/2018 in connection with payment.

Concluding para is as under :-

"Learned counsel also referred to the judgment of this Tribunal in OA No.2545/2016-Balbir Singh Rana vs. The Commissioner North DMC & Ors. decided on 05.02.2018. However, as the provision in law regarding payment of interest on retiral benefits is sufficiently settled by the judgments of the Hon'ble Supreme Court in D.D. Tiwari (D) Thr. LRs (supra) and the Hon'ble High Court of Delhi in Delhi Police vs. Balwant Singh (supra), there is no need for any further discussion on this judgment.

6. In view of the settled position of law as explained above, the OA is allowed with a direction to the respondents to release all retiral benefits due to the applicant along with interest at the

prevailing GPF rate for the period between the date of retirement and the actual payment of dues. While doing so, the respondents shall provide to the applicant the calculation sheet which shall be item-wise. This shall be done within a period of two months from the date of receipt of a certified copy of this order. No costs.”

8. The respondents have also filed details of the payment made to the applicant, which are as under :-

Sr. No	Date of Payment	Amount paid (Rs.)	Towards
1.	03.06.2017	10434/-	Group Insurance Scheme
2.	23.06.2017	94758/-	Earned Leave Encashment
3.	23.06.2017	56230/-	Goods Transport Allowance
4.	14.07.2017	988246/-	General Provident Fund
5.	02.01.2018	224381/-	Pension
6.	06.02.2019	864654/-	DCRG (Gratuity)
7.	06.02.2019	1456190/-	Commutation of Pension
	Total amount paid	3694893/-	

9. Heard the learned counsel for the applicant, Shri Pradeep Kumar and learned counsel for respondents, Shri M.S.Reen.

10. The applicant, after rendering about 24 years of service, took voluntary retirement which was accepted by the respondents w.e.f.31.01.2017. Between the period from 03.06.2017 to 06.02.2019, various retiral dues have been paid to the applicant which have been mentioned above.

11. Although the applicant vide this OA sought many retiral dues, it was mentioned during the arguments that only the 7th CPC arrears and the bonus amount of three years is remaining unpaid. The applicant has also asked for interest on the delayed payment.

12. The respondents have categorically mentioned that no employee of NDMC has been paid the arrears arising out of the fixation of 7th CPC recommendations and the bonus in view of precarious financial condition of NDMC and that these amounts shall be released when the financial position improves. This is an ironical situation as the first charge of any organisation should be the salary, wages and the retiral dues to the employee, whereas in the present case, the retired employees are suffering on account of non payment of retiral dues.

13. In view of the above mentioned & the delay already caused in payment of retiral dues to the applicant, the OA is disposed of and respondents are directed to make the remaining due payments including the arrears of 7th CPC and the due bonus to the applicant within a period of three months from the date of receipt of this order. Interest on the delayed payment of retiral dues at the GPF rate will also be paid from the date of acceptance of voluntary retirement till the payment of dues within three months of the receipt of this order. No order as to costs.

(Mohd. Jamshed)
Member (A)

'uma'