

**Central Administrative Tribunal
Principal Bench**

OA No. 2607/2017

This the 25th day of March, 2019

Hon'ble Mr. Pradeep Kumar, Member (A)

Sh. Dinesh Kumar Laroia,
S/o late Sh. Madan Mohan Lal,
Age-69 years old,

Through LRs

1. Smt. Saroj Laroia,
Aged about 65 years,
W/o Late Sh. Dinesh Kumar Laroia,
R/o B-3/88A, Lawrence Road,
Opposite Metro Station Pillar no.248,
Delhi-110035.

2. Sh. Amit Laroia,
Aged about 42 years,
S/o Late Sh. Dinesh Kumar Laroia,
R/o B-3/88A, Lawrence Road,
Opposite Metro Station Pillar no.248,
Delhi-110035.

3. Ms. Deepti Laroia,
Aged about 36 years,
D/o Late Sh. Dinesh Kumar Laroia,
R/o B-3/88A, Lawrence Road,
Opposite Metro Station Pillar no.248,
Delhi-110035.

... Applicant

(By Advocate: Sh. Anil Kumar Singh)

Versus

Union of India through

1. The Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, Rajendra Prasad Road,
New Delhi-110001.

2. The Director General,
Indian Institute of Mass Communication,
JNU new Campus, Aruna Asaf Ali Marg,
New Delhi-110067.
3. The Registrar,
Indian Institute of Mass Communication,
JNU new Campus, Aruna Asaf Ali Marg,
New Delhi-110067.

... Respondents

(By Advocate: Sh. J.P.Tiwari for respondents no.1
Sh. Amit Singh for respondents no.2 & 3)

ORDER (ORAL)

The applicant herein had joined as Assistant on 04.08.1972 with Indian Institute of Mass Communication. In due course he was promoted to the post of Deputy Registrar from where he had retired on 31.12.2007.

2. While in service there was one project known as WATSAN (water and sanitation) costing about Rs.2.31 crores. There were certain allegations that an embezzlement of Rs. 1.2 crores has occurred during the execution of this project. A preliminary enquiry was conducted by the respondent – Institute and report was submitted on 28.06.2006. It was followed by issuing a show cause notice to four employees, including the instant applicant, on 31.12.2007. Charge sheet was issued subsequently on 31.07.2008. An enquiry officer

was nominated on 20.01.2009, who submitted his report on 20.01.2010, wherein following was concluded:

“It is evident that one or more person(s) had deliberately destroyed/tampered with/removed the relevant and crucial records relating to the above disciplinary case so as to prevent and frustrate the departmental action against the above four officials. This is evident from the Inquiry Officer’s report dated 20.01.2010. In the absence of the crucial documents related to the disciplinary case, it has not been possible to complete the disciplinary proceedings and reach a fair conclusion as to who all were responsible for the embezzlement and misappropriation of funds to the tune of Rs.120.0 lakh.”

3. The respondent – Institute filed a complaint with Police on 01.12.2017 for investigation into missing original papers and for follow up action. However, this has not been converted into FIR as yet, as seen from the counter reply. Meanwhile, the charge sheet dated 31.07.2000, still remains pending.

4. The applicant was sanctioned gratuity amounting to Rs.3,50,000/- on 28.01.2008. Sanction was also accorded for leave encashment of 300 days amounting to Rs.3,00,850/- in this letter. However, half of leave encashment was not paid on account of pending charge sheet (para 2 & 3 supra).

5. Meanwhile, 6th Central Pay Commission (CPC) had also been implemented w.e.f. 01.01.2006 and certain arrears on account of same were also to be paid to the employees. Out of these arrears 40% of the amount i.e. Rs.62,218/- were to

be paid immediately and the balance 60% arrears amounting to Rs.93,326/-, were to be paid in the year 2009-10 as per the instructions and orders of the Government. The 40% component was paid.

During the pendency of this charge sheet and the instant OA, the applicant had unfortunately expired on 24.11.2018 and he is now represented by the legal heirs.

6. The applicant pleads that neither has the enquiry been concluded nor has he been paid (a) 50% amount of leave encashment, (b) the balance of gratuity as per revised limit (with 6th CPC, gratuity limit was revised to Rs.10 lacs from Rs.3.5 lacs earlier) and (c) the 60% of arrears as per 6th CPC. Feeling aggrieved, the OA was filed seeking these three payments along with interest.

7. It was also pleaded that two of the other employees, out of total four who were also chargesheeted (para 2 supra), had also approached the Tribunal in OA No.1324/2017 for release of retiral dues, wherein directions were passed to the disciplinary authority on 08.05.2017, at admission stage itself, to take a decision on the enquiry report arising out of charge sheet dated 31.07.2008 within a period of two months. Those two petitioners had also retired: one on 31.07.2008 and the other on 31.07.2009. The OA was disallowed by Tribunal.

Feeling aggrieved, the two petitioners approached Hon'ble High Court of Delhi vide WP (C) No.9707/2017. The grievance before the Hon'ble High Court was that the retiral dues, namely, leave encashment and gratuity have not been paid despite their superannuation, on account of pending disciplinary proceedings. The Hon'ble High Court had considered the matter and following directions were passed on 18.02.2019:

“1. The petitioners are aggrieved by the order dated 08.05.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (“Tribunal”) in OA No.1324/2017 preferred by them.

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3. The petitioners were working on a particular project in the year 1995-96. In relation to the said project, the Ministry of Information and Broadcasting directed an inquiry through the Vigilance Department which was conducted in the year 2005. In this report the two petitioners were implicated.

4. Consequently on 31.07.2008 the charge memos were issued to the petitioners. Whereas, petitioner No.2 superannuated on 31.07.2008; petitioner No.1 superannuated on 31.08.2009. In the year 2010, the inquiry report was made by the Inquiry Officer exonerating both the petitioners. The said inquiry report remained with the Disciplinary Authority without any further action. He has neither accepted the same, nor disagreed with the same.

5. The grievance of the petitioners was that their retiral dues, namely, their leave encashment and gratuity have not been paid since the date of their superannuation, premised only on the pendency of the disciplinary proceedings.

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9. The petitioners cannot be made to wait endlessly to receive the final settlement of their accounts upon their superannuation. Both of them retired 10-11 years ago. In these circumstances, we allow the petition and direct the respondents to release to the petitioners their leave encashment and gratuity within one month, after making

any justified deduction under the Rules. However, the charge memos in question dated 31.07.2008 shall not be a reason to deduct any amount from their dues. The petitioners shall also be entitled to simple interest on their dues @ 6% p.a. from the dates when the amounts became due, till payment.”

8. The applicant pleads that his case is also exactly similar to those petitioners before Hon’ble High Court in WP (C) No.9707/2017 and needs to be dealt with similarly.

9. Respondents opposed the OA, but there was no opposition to the plea of similarity of applicant vis-a-vis two other petitioners as per para 7 & 8 above.

10. Matter has been heard at length. Sh. Anil Kumar Singh, learned counsel represented the applicants and Sh. J.P.Tiwari, learned counsel represented the respondent No.1 and also Sh. Amit Singh, learned counsel represented respondents No.2 & 3.

11. The instant case is one wherein charge sheet was issued way back in 31.07.2008. However, the same could not be concluded, as the original papers were lost (para 2 supra).

The complaint lodged by the department with the Police on 01.12.2017, to investigate the loss of these original papers, has also not been progressed and even a FIR is yet to be lodged.

12. Under these circumstances, it would not be correct that release of retiral dues should wait endlessly. In accordance with above, the applicant is required to be dealt with as was directed by Hon'ble High Court in WP(C) No.9707/2017 (para 7 supra). Therefore, following directions are given to the respondents for compliance within eight weeks of receipt of certified copy of these orders:

- (i) release the balance 50% of leave encashment amount,
- (ii) release the balance 60% of the 6th CPC arrears,
- (iii) release the balance amount of gratuity as per the revised limit as per 6th CPC, if it is found applicable as per extent instructions on the subject.

The above amounts shall be released to the legal heirs of the applicant after making any justified deduction under the Rules along with simple interest @ 6% p.a. from the due date, till it is actually paid. It is clarified that the pending charge memo dated 31.07.2008, shall not be a reason to deduct any amount from these dues.

13. The legal heirs of the applicant shall have liberty to approach Tribunal if some grievance still subsists in respect of above. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

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