

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

OA No. 259/2018

New Delhi this the 16th day of January, 2019

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

S.K. Sindhwani, 34 yrs. 8826025204
S/o Sh. Kanwerbhan Sindhwani,
R/o R-7/44, Raj Nagar, Ghaziabad, U.P .. Applicant

(By Advocate : Sh. B S Rajesh Agrajit with Ms. Dipti Singh)

Versus

1. South Delhi Municipal Corporation,
Through its Commissioner
780, Major Somnath Marg, Sector 9,
R.K. Puram, New Delhi, deklhi 110022
2. Additional Commissioner
(Finance Accounts & Planning)
Sri Aurobindo Marg, Green Park Extension,
Green Park, New Delhi, Delhi 110016
3. Deputy Controller of Accounts (DCA)
South Delhi Municipal Corporation
780, Major Somnath Marg, Sector 9,
R.K. Puram, New Delhi, Delhi 110022. Respondents

(By Advocate : Sh. M R Junedi)

ORDER (ORAL)

The instant applicant had joined Municipal Corporation of Delhi as JE (Civil) in the year 1978. In due course, he was promoted as Assistant Engineer (Civil) in the year 1998 and Executive Engineer in the year 2008. He superannuated on attaining the age of 60 years on 31.01.2013. The General Provident Fund, Leave Encashment and Provisional Pension has

since been released to the applicant. However, gratuity, full pension and commuted part of pension have not been released. This is the grievance ventilated in the instant OA.

2. One FIR was registered on 7.8.2008 by Anti Corruption Bureau, GNCTD, against certain staff wherein applicant's name did not figure initially. However, thereafter, the respondents department gave permission for prosecution against some staff including the applicant. The respondents mentioned that the allegation is regarding taking bribe in the year 2007-2008. The charge sheet is yet to be filed in Court of Law. No departmental inquiry was initiated against the applicant. The applicant was never placed under suspension and was allowed to superannuate on 31.01.2013. Respondents opposed the OA on the plea that investigation is going on against the applicant.

3. Heard Sh. B S Rajesh Agrajit, learned counsel for the applicant and Shri M R Junedi, learned counsel for the respondents at length.

4. The relevant CCS Rules in regard to pension and retiral dues permit release of provisional pension in case a criminal case is in process and/or a departmental disciplinary action is in process.

5. In the instant case, it is only a question of investigation that is continuing since the year 2008 and more than 10 years have

already elapsed and still the relevant agency has not been able to file any charge sheet in any Court of Law.

A similar matter had also been adjudicated by the Tribunal earlier in the case **of Anil Agnihotri vs. NDMC and Anr.** in OA No.4011/2014 wherein judgment was delivered on 22.12.2015. The operative part reads as under :

“8. In the light of what has been discussed above, I direct the respondents to make payment of the final pension, commuted value of pension, and gratuity to the applicant within a period of three months from today. On the facts and in the circumstances of the case, it cannot be said that the respondents deliberately withheld the family pension, commuted value of pension, and gratuity payable to the applicant. Therefore, I am not inclined to direct the respondents to pay interest on the said retirement Benefits But it is directed that if the respondents fail to make payment of the aforesaid retirement dues to the applicant within three months from today, they shall be liable to pay interest thereon at GPF interest rate from 1.3.2014, i.e., the date following the date of retirement of the applicant, till the date of actual payment.”

6. In the light of what has been discussed above when there is neither a criminal case pending nor is a disciplinary case pending, retiral dues cannot be withheld. The respondents are hereby directed to release full pension to the applicant within a period of eight weeks from the date of receipt of a certified copy of this order. Meanwhile, applicant may also make a request for commutation, if desired and not made so far, Gratuity full pension and commutation shall be released by the respondents during this eight weeks time. In case, these are not paid within

this time, it is further directed that the same will carry an interest at GPF rate, w.e.f date of superannuation till they are paid.

6. OA is disposed off with above directions. There shall be no order as to costs.

**(Pradeep Kumar)
Member (A)**

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