

**Central Administrative Tribunal
Principal Bench**

**CP No.64/2014 in
OA No.4079/2010**

New Delhi, this the 21st day of January, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Dr. Dharmendra Singh
S/o Late N.P. Singh
R/o Plot No.33, Gopal Nagar
Dhansa Road, Najafgarh
New Delhi-110043. ... Petitioner

(By: Applicant in person)

Vs.

1. Shri Avinash Dixit, Commissioner
Kendriya Vidyalaya Sangathan Headquarters
18, Institutional Area, Shaheed
Jeet Singh Marg, New Delhi.
2. Shri G.K. Shrivastava, Addl. Commissioner
Kendriya Vidyalaya Sangathan Headquarters
18, Institutional Area, Shaheed
Jeet Singh Marg, New Delhi. ... Respondents

(By Advocate: Shri S. Rajappa)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The petitioner was working as Post Graduate Teacher in the Kendriya Vidyalaya Sangathan. Disciplinary proceedings were initiated against him by

issuing a charge memo, alleging acts of insubordination, unauthorized absence and contracting a second marriage during subsistence of first marriage.

2. Not satisfied with the explanation submitted by the petitioner, the Disciplinary Authority appointed an Inquiry Officer who, in turn, submitted a report dated 13.05.2009. Taking the same into account, the Disciplinary Authority passed an order dated 11.08.2009 dismissing the petitioner from service. Appeal preferred by him was dismissed by the Appellate Authority on 30.09.2010. Thereupon the petitioner filed OA No.4079/2010 before this Tribunal. The OA was allowed on 30.08.2013 setting aside the report of the inquiry officer and the order of punishment. Since the petitioner attained the age of superannuation in the year 2013, during the pendency of the OA, it was directed that he shall be deemed to have retired from service while on duty and he shall be extended the retiral benefits admissible under the relevant rules.

3. The respondents filed Writ Petition No.2264/2014 before the Hon'ble Delhi High Court. It was partly allowed directing that the petitioner shall be entitled to be paid back wages between the date of dismissal from service and the date of retirement, only to the extent of 50%.

4. This contempt case is filed alleging that the respondents did not release the benefits to the petitioner. He contends that though the pension and 50% of back wages were released, several benefits such as salary between 25.09.1991 and 03.11.1991, similar dues for the period March 1996 and December 1996, Senior Scale due in the year 1998 (first promotion), Selection Scale (Second Promotion), medical amount etc. were not paid to him.

5. The respondents filed a counter affidavit stating that the petitioner was extended all the benefits as directed by this Tribunal.

6. We heard the applicant, who argued the case in person and Shri S. Rajappa, learned counsel for the respondents.

7. The operative portion of the judgment of the Tribunal reads as under:-

"46. We, in the above facts, circumstances and the settled law in the matter, allow this OA and set aside the impugned Enquiry Officer's report dated 13.5.2009, Disciplinary Authority's order dated 11.8.2009 and the Appellate Authority's order 13.9.2010 and 4.11.2010. Since the Applicant has already attained the age of superannuation, during the pendency of this OA before this Tribunal, he shall be deemed to have been reinstated in service from the date he was dismissed from service. Further, he shall also be deemed to have retired from service on the due date with all terminal benefits as admissible under the rules. As far as the pay and allowances for the period between his date of dismissal and date of superannuation is concerned, the competent authority shall take appropriate decision in accordance with the rules. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order and appropriate orders shall be issued under intimation to the Applicant."

8. From this it becomes evident that the petitioner was directed to be treated as having retired from service while on duty. Though the question relating to

the manner in which the period between the date of dismissal and the date of retirement shall be treated was left open, the Hon'ble High Court directed that the applicant shall be entitled to be paid 50% of the wages.

9. It is not in dispute that the applicant was released regular pension and 50% of the wages. The amounts which are due, according to the applicant, are listed as under:-

- “a. Due payment of salary w.e.f. 25.09.1991 to 3.11.1991
- b. Due payment of salary w.e.f. 02.03.1996 to 11.12.1996
- c. Senior Scale due in the year 1998
- d. 1st promotion on due date mandatory
- e. Selection scale on due date
- f. 2nd promotion on due date
- g. Payment of T.A./D.A. in compliance direction of KVS
- h. Payment of medical amount during service period
- i. Payment of interest on amounts not released. A copy of office memorandum dated 01.03.2018 and a copy of representation dated 12.03.2018 submitted to respondent is enclosed as Annexure MA-7.”

10. A perusal of the same discloses that none of them are referable to the order in the OA and they relate to the period before his dismissal from service. The direction in the OA was for payment of "Terminal benefits". None of the claims of the petitioner, extracted above, can be treated as Terminal benefits. We do not find any merit in the CP. It is accordingly closed.

11. All pending MAs shall stand disposed of.

(Pradeep Kumar) (Justice L. Narasimha Reddy)
Member(A) Chairman

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