

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. NO.779 of 2018

This the 15th day of October, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

K. S. Meena
S/o Shri Lt. B.L. Meena,
Aged about 53 years,
Presently working as
Joint Commissioner Employment,
5-Sham Nath Marg,
Government of National Capital Territory of Delhi
New Delhi-110054.

.... Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Government of National Capital Territory of Delhi
Through Director cum Secretary,
Employment Department,
5- Sham Nath Marg, Delhi-110054.
2. Finance Secretary,
GNCT of Delhi,
Delhi Secretariat,
New Delhi.
3. Union of India,
Through Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001.

..... Respondents

(By Advocates: Ms. Harvinder Oberoi for R-3 and
Shri R.K. Sharma for R-1 and R-2)

O R D E R (Oral)

By filing this OA, the applicant is seeking the following
reliefs:-

- “1. Direct Respondents to pay the compound interest
@ 12% per annum on the arrears of salary from
the dates it fell due for each respective months or

alternatively to deposit the arrears of pay in the GPF account of the applicant from the respective dates on which the amount fell due to the applicant.

2. Direct the Respondents to pay the compound interest @12% per annum on the arrears of salary paid to the Applicant upon his promotions to time scale and selection scale of DANISC in the month of April, 2017 and further to the JAG-II of DANICS in the month of September, 2018 from the dates it fell due for each respective months or alternatively to deposit the arrears of pay in the GPF account of the Applicant from the respective dates on which the amount fell due to the Applicant.
3. Award cost of litigation.
4. Pass any other order as deemed fit & proper in the facts and circumstances of the case.”

2. Brief facts of the case are that vide order dated 10.10.2016, applicant was placed in the Entry Grade Officers of DANISC in the pay scale of Rs.8000-13500 (pre-revised) with effect 1.7.1996. Thereafter the applicant submitted his representation dated 30.1.2017 making a request that the arrears of the salary payable to him may be considered to be either deposited in his GPF account making effective from the dates (month wise) it accrued to him for the interest purpose or paid the interest in cash at prevalent GPF rates in lieu thereof. The respondents have considered his aforesaid representation and passed the order dated 28.7.2017. The relevant part of the same reads as under:-

“The Finance Department, GNCTD has returned the proposal with the clarification that the Govt. servant is not permitted to enhance GPF subscription with retrospective dates where become eligible for arrears of

pay and allowances on account of revision of pay scale from retrospective dated and also where suspension period is decided by the Competent Authority as period spent on duty and the employee has become eligible for pay and allowances for that period, as per the clarification dated 28.09.2016 and 12.06.2017 of the Govt. of India, Ministry of Home Affairs already circulated to all the departments of Govt. of NCT of Delhi.”

2.1 Aggrieved by the aforesaid action of the respondents, the applicant has filed this OA seeking the reliefs as quoted above.

3. Pursuant to notice issued to the respondents, they have filed their reply in which they stated that the applicant joined DANICS on 1.5.1993 but the date of service of the applicant was antedated to 1.7.1992 by the Ministry of Home Affairs. Later on a criminal case was registered against the applicant vide FIR No.6.5.1997 by the CBI. After his acquittal, respondent no.3 has granted pay scale of Rs.8000-13500/- (old scale) with effect from 1.7.1996 with all consequential benefits. Subsequently, he has been promoted to the Selection Grade in the pay scale of Rs.10,000-15,200 (Old Scale) w.e.f. 1.2.2002 with all the consequential reliefs. There was fixation orders dated 19.1.2017 by the respondent no.2 consequent upon grant of pay scale of Rs.8000-13500 and further grant of promotion to the selection grade for the years 1996 to 2016.

3.1 Applicant submitted representation to respondent no.1 requesting for grant of interest on arrears of the salary for the

period from 1996 to 2017 or alternatively to deposit the same in the applicant's GPF account making effective from the dates (month wise) it accrued to the applicant which have been rejected vide order dated 28.7.2017. They further stated that the said decision is based in terms of Rule 11(4) of GPF (CS) Rules, 1960 as also as per the notification dated 28.6.2016 issued by the Ministry of Affairs and further clarification of Ministry of Home Affairs to the notification dated 12.6.2017.

4. During the course of hearing, counsel for the applicant submitted that applicant's representations dated 30.1.2017 and 22.3.2017 have been rejected by the respondents in an arbitrary manner as there was no legal ground to deny the compound interest on the arrears from the dates when the payment fell due to the applicant.

4.1 Counsel further submitted that arrears of salary have been due for a very long period, i.e., for more than 20 years and the payments of the same amounts on the date of actual payment would lead to reduction of actual value of the money, which would have been enjoyed by the applicant, had it been paid to him at an appropriate time.

4.2 Counsel further submitted that applicant has been denied promotions because of no fault on his part and the respondent no.2 granted sanction for prosecution against him

without application of mind and has made the applicant to suffer the trial for more than 18 years and denied the rightful promotions to the applicant for more than 20 years. Counsel also submitted that Apex Court in catena of judgments explained the meaning of promotions with consequential benefits and the applicant is entitled for interest on the payment of arrears in view of specific and categorical orders of promotion of the applicant allowing all consequential benefits, which is based on the principle of equity and justice.

5. On the other hand, learned counsel for the respondents submitted that rejection of claim of the applicant by the respondents is based of the provisions of Rule 11(4) of GPF (CS) Rules, 1960 as also as per the notification dated 28.6.2016 issued by the Ministry of Affairs and further clarification of Ministry of Home Affairs to the notification dated 12.6.2017. Counsel further submitted that GPF (CS) Rules provides for subscription @ minimum of 6% and maximum of total emoluments as on 31st March of the preceding year or on the date the employee joins the fund. Further enhancement of subscription with retrospective effect is not mentioned in the rules. He further submitted that interest is accrued on the actual fund balance on the first day of every month and as the salary was not received at the relevant time due to pendency of criminal case against the applicant, the GPF was not deducted and therefore nothing

was invested, hence, interest was not gained and, therefore, no question arises for making payment of retrospective interest on that amount w.e.f. the year 1996.

6. Heard learned counsel for the parties and perused the pleadings available on record. It is evidently clear from the pleadings that applicant was involved in a criminal case which was registered against him and others co-delinquents under Section 120-B, 420 r/w 511, 468, 471 IPC and 13 (2) r/w 13 (1)(d) of PC Act, 1988 on 6.5.1997 and the said case was finalized on 17.9.2015 whereby the applicant and certain other persons were acquitted by the learned Special Judge-CBI (P.C. Act)-06, Central, Tis Hazari, Delhi. The applicant himself stated that due to his facing a criminal trial during the period from 1997 to September 2015, the grant of Pay Scale of Rs.8,000-13,500/-, which is permissible under the rules after confirmation and regular service of 4 years in the entry grade and further promotion to the Selection Grade was kept in sealed cover and after his honourable acquittal, Ministry of Home Affairs, has granted the pay scale of Rs.8000-13500 (Old Scale) w.e.f. 1.7.1996 with all consequential benefits and he was further promoted to the Selection Grade in the pay scale of Rs.10,000-15200/- (old scale) w.e.f. 1.2.2002 with all consequential benefits. As such there is nothing wrong in the action of the respondents in not granting the interest on the arrears of pay as the same was

rightly withheld due to involvement of the applicant in the said criminal case and decision in the matter can only be taken after the finalization of the said case, which respondents have taken after receiving the order of acquittal of the applicant in the said case. Further, there is no provision in the rules or law which permits an employee to deposit the arrears of pay in the GPF account from the retrospective/respective dates on which the amount fell due to him. Non-payment of GPF contributions in time cannot be paid later and no rules allows the same.

7. In view of the above, for the foregoing reasons, the present OA is dismissed being devoid of merit. There shall be no order as to costs.

**(Nita Chowdhury)
Member (A)**

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