

**Central Administrative Tribunal
Principal Bench**

OA No. 3815/2018

Order Reserved on: 20.08.2019
Order Pronounced on: 22.08.2019

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

Smt. Madhu Sharma, 61 years,
Group 'B',
Lady Health Visitor (Retired)
W/o late Prem Kumar Sharma,
R/o E-10/C, Near Hira Sweets,
Laxmi Nagar, Delhi-110092 - Applicant

(By Advocate: Mr. A.K. Trivedi)

VERSUS

1. East Delhi Municipal Corporation,
Through the Commissioner,
First Floor, Udyog Sadan,
Patparganj Industrial Area,
New Delhi-110096
2. The Chief Administrative Medical Officer,
East Delhi Municipal Corporation,
Shahdara (South) Zone, Delhi - Respondents

(By Advocate: Mr. MS Reen)

ORDER

The applicant has filed the present OA, seeking the following reliefs:-

- “(a) Declare the action of the respondents as illegal, unjust and arbitrary in not releasing the regular monthly pension, DCRG, commutation, arrears on account of MACP and arrears of DA w.e.f. Jan 2014 to 2017 etc. to the applicant despite the fact that the applicant does not have any source of income to earn her day to livelihood.
- (b) Direct the respondents to release and pay the capitalized value of pension (commutation), Gratuity, arrears of MACP, Arrears of DA w.e.f. Jan 2014 to 2017 and all other remaining retirement benefits alongwith interest @18% p.a. (on all above dues) till payment.

- (c) Award interest @ 18% on the delayed payment of arrears of Monthly pension (for the month of May 2017 to Jan 2018) on Rs.1,76,066/-(01.05.2017 to 17.04.2018) and (for the month of Feb 2018 to Mar. 2018) on Rs.39,864/- (From 01.04.2018 to 23.07.2018).
- (d) Award interest @18% on the monthly pension due from April 2018 till payment is made.
- (e) Direct the respondents to release and regularly pay the Monthly Pension to the applicant.
- (f) Any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (g) Award Cost and compensation for mental agony and sufferings."

2. It is the case of the applicant that after an inordinate delay of almost 2 years from the date of his retirement, i.e., 30.04.2017, the respondents have paid him the amount of gratuity to the tune of Rs.10,36,464/- and commutation of pension amounting to Rs.11,87,803 only on 06.04.2019. He has thus claimed interest on the delayed payment of gratuity and commutation. He has further pleaded that the respondents have wrongly calculated the arrears of ACP amounting to Rs.2,70,188/- on 11.02.2016 for the period from 01.02.2016 to 15.02.2016, whereas the applicant has been paid only Rs.2,40,188/- on 16.03.2016 and as such, the balance amount of Rs.30,000/- remains to be paid.

3. In the reply to the aforesaid averments of the applicant, the respondents have produced before us the copy of the document which clearly show that an amount of Rs.240188/- has been paid to the applicant vide Cheque No. 33062924 dated 16.03.2016 and the balance amount of Rs.30,000/- has been paid by the applicant herself vide cheque on account of income tax for the arrear 2016. Hence, the claim of the applicant that the balance amount is yet to

be paid is found to be incorrect. Regarding delayed payment of gratuity and commutation of pension to the applicant, the respondents have been able to show their bonafide in their Counter Affidavit that they had already sent the demand for payment of Gratuity of Rs.1036464/- and commutation of pension of Rs.1187803/- to HQ vide No.05/175 dated 15.06.2017 but due to the financial crises in EDMC, such payment of Gratuity and Commutation of Pension is pending in respect of employees who have retired since May 2016 and September 2015. They have contended that since the applicant retired from EDMC on 31.04.2017, the delay of 2 years has occurred due to their difficult financial position of the EDMC. We have also acknowledged this fact in the case of Brahampal Singh Dholyan vs. East Delhi Municipal Corporation (OA No. 886/2018) in which the following observations were made on 08.07.2019:-

“4.However, as regards demand for payment of gratuity and computation of pension have also been sent to HQ vide demand No.281/11/16/01/2017, but the same shall be paid on account of non-availability of funds from HQ. They have further submitted that the EDMC have made a procedure/system by which they are releasing the pensionary benefits to their employees and according to this procedure the employees who were retired till October, 2015 have only been paid DCRG & Commutation of pension. Hence, the remaining payment could not be released to the applicant due to paucity of funds.

5. The respondents have mainly contended that the respondent – EDMC does not have the financial resources to pay all dues of all employees at one time and in view of the paucity of funds in the respondent – organization, they are paying employees as and when they have funds. At present, only employees, who have retired till October, 2015 have been paid.”

Hence, in view of the precarious financial position of the Corporation, the claim for interest on the delayed payment of

Gratuity and Commutation of Pension is not feasible at present. However, if in future the financial position of the EDMC also improves and they pay interest to any employee on delayed payments of retiral dues, then the same interest shall be given to the applicant of this OA also.

4. In view of the above, nothing remains to be decided in this OA and the same is dismissed accordingly. No order as to costs.

(Nita Chowdhury)
Member (A)

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