

**Central Administrative Tribunal
Principal Bench**

OA No. 13/2019

New Delhi this the 2nd day of September, 2019

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

Smt. Amita Sudan, Aged 60 years, 'B'
Husband Name Sunil Sudan,
Retired Senior Superintendent from
Department of Social Welfare,
GNCT of Delhi, New Delhi
R/o 519-C, Sector-3, RK Puram,
New Delhi - Applicant

(By Advocate: Mr. Yogesh Sharma)

VERSUS

1. Govt. of NCT of Delhi through
The Chief Secretary,
Delhi Secretariat, Players Building,
IP Estate, New Delhi-2
2. The Secretary,
Department of Social Welfare,
GNCT of Delhi, GLNS Complex,
Delhi Gate, New Delhi
3. The Superintendent,
BH-I, BH-II, HADB, HMB (A&D) & HOIB,
Department of Social Welfare,
GNCT of Delhi, Lampur, Delhi-110040
- Respondents

(By Advocate: Mr. Amit Yadav)

ORDER (Oral)

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

- “(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 07.12.2018 (Annex.A/1)

and consequently, pass an order directing the respondents to release all the retirement benefits of the applicant including regular pension, gratuity, leave encashment, GPF amount, insurance etc, from due date with interest @18% per annum.

- (ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant."

2. The applicant has filed this OA against the inaction of the respondents by which they are not releasing the retirement benefits of the applicant, as she retired on 28.02.2018 and at the time of her retirement, neither was she placed under suspension nor was any departmental or criminal proceeding was pending against her. She has further pleaded that even after her retirement till date, no charge sheet is pending against her and yet the respondents, vide their impugned order dated 07.12.2018, directed her to submit the required documents for provisional pension.

3. On 08.08.2019, the Tribunal, while noticing the fact that the respondents have failed to file the chargesheet or any details with regard to the disciplinary proceedings, have directed the respondents' counsel to file the correct position by way of an affidavit. Pursuant thereto, the respondents have filed the status affidavit

stating that the retirement dues have been paid to the applicant:-

(i) The Final GPF withdrawn for an amount of Rs.4168355/- vide office bill No.GPF-12 dated 29.05.2018.

(ii) UTGEIS for an amount of Rs.67216 vide office bill No.INS-92 dated 19.01.2019

(iii) Leave Encashment for Rs.865630 vide Office Bill no.109 dated 22.02.2019

4. The respondents have submitted that the pension case in respect of the applicant was submitted to PAO-XI on 07.01.2019 who has returned the same with some objections vide letter dated 25.01.2019 and after removing the objections, the case was resubmitted to PAO-XI on 03.04.2019 who has again raised objection vide letter dated 12.04.2019 and returned the pension case. They have further contended that the office had resubmitted the case of the applicant on 30.04.2019 after fulfilling the objections, but PAO-XI had again returned the same on 07.05.2019 with a new objection that the approval of Finance Department is required for counting of previous service rendered by the applicant. They have accordingly sent the case for counting of previous service rendered in VRS Bombay on 08.05.2019 for obtaining the

approval of the Finance Department, Govt. of NCT of Delhi, but the same has been returned with the remark that the details of GPF payment along with attested copies of all the GPF pass books and relevant documents related to VRC, Bombay and a certificate whether the applicant had received GPF payment pertaining to the period rendered in VRC, Bombay are required. The respondents have contended that a letter dated 13.06.2019 in this regard was sent to the applicant to provide the GPF details/status for the service rendered in VRC Bombay as same was not available in office records. They have contended that the pension case of the applicant was against submitted in PAO-XI on 01.07.2019 but the same was returned by PAO-XI with objection and after removing the objections raised by PAO-XI, the case was resubmitted on 05.07.2019, but PAO-XI had again returned the same with the objection that the clear vigilance status report is required. The respondents have therefore, submitted that the pension case in respect of the applicant had been resubmitted along with latest vigilance status report received from Admn. Branch, DSW on 06.08.2019 vide which it was informed that at present no disciplinary proceedings has been initiated or chargesheet has been issued against the

applicant and therefore her pension cannot be withheld. They have further submitted that the PAO XI has been informed vide letter dated 21.08.2019 that the pension benefits cannot be denied on the ground of mere pendency of preliminary inquiry against the applicant. They have also in the meantime submitted a letter dated 27.08.2019 to the Dy. Director (Vigilance), Department of Women and Child Development to provide the latest report of the matter of inquiry pending against the applicant. Pursuant thereto, it was informed vide letter dated 29.08.2019 as under:-

“It is therefore opined that pendency of any internal inquiry proceeding where the Government servant is not charge sheeted till the date of his retirement does not create any bar on the authorities from releasing the retirement benefits.

5. They have vide their letter dated 30.08.2019 again made PAO aware of the latest vigilance status and also opinion of the Vigilance Department. They have thus submitted that now at present the pension case of the applicant is submitted to PAO-XI, Old Sect. Govt. of NCT of Delhi for approval of monthly pension/pension benefits which is being pursued regularly by the respondents. The respondents have thus prayed that they undertake to comply with any order which the Tribunal may pass in the facts and circumstances of the case.

6. After hearing both the parties and pursuing the record, it is noticed the applicant had retired on attaining the age of superannuation on 28.02.2018 and at the time of his retirement, she was neither under suspension nor any departmental proceeding/ criminal case was pending against her and even till date, no adverse proceeding is pending against her. The respondents in their status affidavit filed on 02.09.2019 have accepted that nothing is pending against the applicant. However, as far as the interest on withheld amount of retiral dues is concerned, it is noticed from the documents produced by the respondents on our directions that the applicant had submitted her required pension papers only on 19.03.2019 vide her forwarding letter dated 16.03.2019 and as per Rule 59(2) of Pension Rules, all the pensionary benefits are to be cleared within a period of 8 months from the date of submission of pension papers. Further, as per the information given by the respondents, before grant of pension, previous service rendered by the applicant in VRC Bombay has to be taken into account and the same is pending verification and approval, as detailed in Para 4 of this order above.. Hence, this was not a case in which pension was delayed for no rhyme or reason but one in which PAO had repeatedly asked for

certain information with regard to previous employment which could only be given after a fairly detailed and lengthy correspondence. Normally, the applicant should have submitted all the said details of her previous service, which was to be counted for purposes of pension while filing her pension papers and it is the submission of incomplete pension papers and late submission of papers which has led to delay in payment in this matter.

7. In the peculiar facts and circumstances of this case, we do not find any willful violation of Rule 59(2) of the CCS Pension Rules. Hence, no interest for the delay can be allowed. Nevertheless, the respondents are directed to complete all formalities required to disburse pension within 30 days of receipt of a copy of this order and any period beyond this shall entail payment of interest from that date.

8. With the above directions, the OA is disposed off.
No costs.

(Nita Chowdhury)
Member (A)

/lg/