

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

**TA No. 12/2010  
MA No. 3497/2016**

**New Delhi this the 24<sup>th</sup> May, 2019**

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

SH. CHAMMI LAL S/o Sh. MUNNA LAL  
R/O 88, JANTA QTRS. VIVEK VIHAR, DELHI-95

.....Applicant

(By Advocate: Sh. N. D. Pancholi)

Versus

THE MUNICIPAL CORPORATION OF DELHI  
THROUGH ITS COMMISSIONER,  
TOWN HALL, DELHI- 110006

.....Respondent

(By Advocate : Sh. K. M. Singh)

**ORDER (ORAL)**

1.0        The instant applicant had retired from Municipal Corporation of Delhi on 31.08.1982. Subsequent to that, there were certain disputes about what shall be the payable amount of pension to the applicant. A Civil Suit was filed in the Court of Sh. Raj Kumar Tripathi, Civil Judge under **Suit No. 257/2001** on 23.10.2000. The decision on the same was pronounced on **28.10.2005**. The issue as recorded by court is as under:-

"In his affidavit Pw1 exhibited court's order dated 23.09.1987 as Ex. Pw1/1, Ex. Pw1/2 is the copy of the order dated 29.09.1997, Ex. Pw1/3 is the copy of notice dated 17.01.2000, Ex. Pw1/4 is the postal receipt dated 17.1.2000, Ex. Pw1/5 is the acknowledgement receipt and Pw1/6 is the letter dated 25.10.1999. In his affidavit Pw1 stated that on 29.09.1997 the defendant during the course of disposal of execution application bearing CM No. 7224/92 clarified that pension of the plaintiff has been fixed @ Rs. 847/- p.m. plus D.A. against Rs. 892/- claimed by the petitioner w.e.f. 01.01.85 and defendant undertook that the pension at this rate would be paid regularly to the plaintiff. It is further stated that pursuant to the said undertaking the defendant paid pension plus D.A. to the plaintiff computed on the basis of the rate of pension Rs. 847/- per month plus D.A. and the same is paid till today. It is further stated that presently the defendant is paying D.A. on the basis of revised rate taking old rate of pension though rate of pension has been revised twice, on the basis of report of two pay commissions. It is further stated that as per record, recommendation of fourth pay commission was made effective w.e.f. 1-1-1986 and recommendation of fifth pay commission was made effective w.e.f. 1-1-1996 giving benefit to the pension holders in addition to other regular Govt. employees. Pw1 further stated that on the basis of two reports of pay commissions, the plaintiff became entitle for the pension @ Rs. 2075.86/- p.m. plus D.A. w.e.f. 1-1-1986 to 31-12-1995 and Rs. 6286/- plus D.A. P.M. w.e.f. 1-1-1996 onwards. It is stated by him that he is entitled for enhanced D.A. which has been announced time to time after 1-1-1986 till date. He further stated that on the computation of the difference amount of enhanced rate of pension w.e.f. 1-1-86 to 31-12-1995 and 1-1-96 onwards a sum of about Rs. 6 lacs approximately till 30-9-2000 comes to be due to be paid by defendant to plaintiff towards his pension."

The operative part of this judgment reads as under :-

### **RELIEF :**

"In view of my findings on the issue no:2 the suit of the plaintiff is decreed with cost. Defendant is directed to release the amount of arrears of difference of pension plus D.A. after computing the pension plus D.A. @ Rs. 2075.86/- plus D.A. w.e.f. 1-1-1986 to 31-12-1995 and the pension plus D.A. @6286.00 plus D.A. w.e.f. 1-1-1996 onwards on the

basis of reports of 4<sup>th</sup> pay commission and 5<sup>th</sup> pay commission respectively plus interest @ 12 % P.M. at the amount of difference w.e.f. 1-1-1986 till the date of payment. Decree sheet be prepared accordingly. The original documents filed by the parties, if any, be returned to the respective parties. Ahlmad is directed to return the original documents to the parties as per rules. File be consigned to record room."

2.0 Subsequently this decision came under adjudication by the Tribunal in T.A. No. 29/2011 along with TA 12/2010, wherein judgment was pronouncement on 26.03.2012. The operative part of this order reads as under:-

"11. Keeping the aforesaid submissions of the counsel in view, we dispose of this TA by directing the respondents to carry out the orders passed in the decree dated 28.10.2005 as expeditiously as possible and definitely within a period of two months from the date of receipt of a copy of this order. Any further delay in payment of the decreed amount to the applicant would attract payment of interest cover and above that which has already been ordered by the Court."

3.0 In due course of time, this decision by the Tribunal came to be challenged by NDMC, in the Hon'ble High Court of Delhi in W.P. (C) No. 2461/2013 wherein the judgment was pronounced on 13.03.2015. This judgment reads as under:-

"Ms. Amita Gupta, learned counsel for the petitioner/North Delhi Municipal Corporation today again seeks time to file additional affidavit in terms of the order dated 11.02.2015 which is strongly opposed by learned counsel for the respondent. Mr. N. D. Pancholi, learned counsel for the respondent submits that in the

writ petition preferred by the respondent being CW No. 1356/1987, the Petitioner Corporation itself submitted that pension of the respondent has been fixed at Rs. 847 plus DA with effect from 01.01.1985 and the petitioner had been drawing his pension regularly at the said rate. Counsel further submits that even in the judgement dated 28.10.2005 there is reference to the said decision of the High Court and, therefore, in the background of these indisputable facts, the petitioner cannot take any step contrary to their own stand by alleging that the pension of the respondent was fixed at the rate of Rs. 847 from 01.01.1986 instead of 01.01.1985. Ms. Amita Gupta, counsel for the petitioner submits that there might have been some mistake in referring the said period.

*We have heard learned counsel for the parties, and we find no merit in the contentions raised by learned counsel for the petitioner. We have the advantage of perusing the order dated 29.09.1997 passed by Division Bench of this Court in WPC No. 13576/1997 and in this order there is clear reference to the counter affidavit filed by the MCD wherein they themselves gave the details of the payments made to the petitioner and in these details the MCD had clearly stated that pension of this respondents was fixed at Rs. 847 plus DA with effect from 01.01.1985. The MCD also went to the extent of submitting that this petitioner had been drawing the pension at the said rate regularly. In the light of the said indisputable facts, we find no tenable reasons to interfere with the impugned order dated 26.03.2012 passed by Central Administrative Tribunal, Principal Bench, New Delhi. The petitioner shall comply with the directions given by learned CAT to pay the differential amount with arrears along with interest at the rate of 12% per annum within two months from the date of this order."*

4.0 The applicant pleads that these orders have not been complied with as yet. The applicant had now filed an M.A. No. 3497/2016 for execution of orders in TA No. 12 of 2010 as adjudicated by the Tribunal (para 2.0 supra).

Another M.A. No. 3498/2016 has also been filed seeking condonation of delay in filing M.A. No. 3497/2016. M.A. No. 3498/2016 has already been allowed vide order dated 03.08.2017.

5.0 The respondents have submitted their counter reply on 12.01.2018. Certain annexures have also been submitted along with this reply and the averment made in respect of pension being paid w.e.f. 01.01.1986, reads as under:-

***“He is getting this basic pension of Rs. 847/- w.e.f. 1.1.1986 which has already been admitted by him in the due-drawn statement.”***

6.0 The respondents have also submitted an additional affidavit on 17.10.2018. Following averment has been made in the same:-

“ 2. That the matter has been re-examined by the Engg. Deptt., North DMC and found that whatever admissible dues against deceased employee Sh. Chammi Lal has already been paid to him, the detail of which has already been submitted before this Tribunal.

x x x x x

5. That East DMC has also re-examined the case and supplied the details (Annexure 'B') showing that whatever admissible dues of the arrear has been paid to the legal heirs and as on date nothing is left to be paid towards Sh. Chammi Lal.”

7.0 The respondents have thus pleaded that whatever was due, has been paid.

8.0 Matter has been heard at length. Learned counsel Sh. N. D. Pancholi represented the applicant and learned counsel Sh. K. M. Singh represented the respondents.

9.0 It is very clear from the judgement of Civil Court (para 1.0 supra) that an amount of Rs. 2075.86 plus DA towards pension was to be paid w.e.f. 01.01.1986 to 31.12.1995 and at the rate of Rs. 6286 plus D.A w.e.f. 01.01.1996 onwards. This was on the basis that pension was to be Rs. 847/- w.e.f. 01.01.1985. This judgement has since been confirmed by the Tribunal (para 2.0 supra) as well as by the Hon'ble High Court (para 3.0 supra).

10.0 It is also very clear from the counter reply submitted by the respondents that what has been paid is Rs. 847/- w.e.f. 01.01.1986.

11.0 Therefore, the order by the Tribunal has not been complied with as yet. The pleas put forth by the applicant about non-compliance are gaining acceptability.

12.0 In the event, in the interest of delivery of substantive justice, the respondents are directed to comply with the orders at para 2.0 above, within a period of ninety days of receipt of certified copy of these orders. All arrears alongwith interest thereon at the rate as already directed, shall also be paid from the due date of payment up to the date of this instant order. In case, this entire amount is not paid in this time limit of ninety days, the said interest will continue to accrue till it is finally paid. A month wise due and drawn statement shall also be advised to applicant. The applicant shall also have liberty to initiate contempt proceedings against Commissioner, NDMC, if these orders are not complied within this ninety day period.

13.0 Accordingly, the instant T.A. is disposed of. No order as to costs

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

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