

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

...

Original Application No. 290/00243/2017
 With Misc. Application No.290/00184/2017

Date of order: 05.08.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Mahesh Goura s/o Shri Balu Ram, aged 42 years, By caste Jat, R/o village Devli Kallan, Tehsil Nawa City, District Nagaur (Rajasthan) (Presently working as TGT (Maths) under respondent No.4).

...Applicant

(By Advocate: Shri M.S.Godara)

Versus

1. Kendriya Vidhyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110016 through its Commissioner.
2. Deputy Commissioner, Kendriya Vidhyalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur- 302015 (Rajasthan).
3. Assistant Commissioner, Kendriya Vidhyalaya Sangathan, Regional Office, 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur 302015 (Rajasthan).
4. Principal, Kendriya Vidhyalaya No.1 (Army), Army Area, Banar Road, Jodhpur (Rajasthan).

...Respondents

(By Advocate: Shri Avinash Acharya)

ORDER (ORAL)

Per Mrs. Hina P.Shah

After considering the Misc. Application for condonation of delay, we allow the same and condone the delay.

2. In the OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

- (i) That this application may kindly be allowed; and
- (ii) That the respondents may be directed to fix the basic pay of the applicant at Rs. 12,540/- with Grade Pay of Rs. 4600/- w.e.f. 1.1.2006 and grant the arrears with interest @ 9% per annum.
- (iii) That the orders dated 20.06.2017 (Annex.A/1) and order dated 08.06.2012 (Annex. A/2) may be quashed and set aside by declaring the same illegal and the amount recovered may be refunded with interest @ 9% per annum.
- (iv) Any other relief which this Hon'ble Tribunal deems just and proper in favour of the applicant may be passed.

3. The case of the applicant is that he had earlier approached this Tribunal by filing OA No.126/2017 claiming for fixation of pay at Rs. 12540 with Grade Pay of Rs. 4600 w.e.f. 1.1.2006. This Tribunal vide order dated 12.4.2017 had issued a direction to the applicant to file a representation with all connected documents and thereafter the respondents were to consider the matter and pass appropriate order within two months in accordance with law. The respondents vide order dated 20.6.2017 (Ann.A/1), in compliance of the order/direction of this

Tribunal, passed a Memorandum stating that the pay fixation/stepping up of Pay at Rs. 12450 with Grade Pay of Rs. 4600 granted to the applicant w.e.f.11.9.2006 vide order date 9.3.2011 was sustainable by law as it was within the purview of the prescribed rules/guidelines and procedure and his representation was disposed of. Challenging this Memorandum and the order of recovery Ann.A/2, the applicant has filed the present OA for quashing and setting aside the same with a plea that he may be granted arrears and the amount recovered may be refunded with interest at the rate of 9%.

4. The respondents have filed reply to the OA dated 26.02.2018, justifying their action regarding fixing the pay of the applicant at Rs. 12540 with Grade Pay of Rs. 4600 w.e.f. 11.9.2006 by annexing Ann.R/1 to R/5 documents.

5. Heard the learned counsel for both the parties and perused the material available on record.

6. During the course of arguments, the learned counsel for the respondents has produced the office order dated 3.12.2018 vide which the respondents have granted benefit as prayed for in the OA by the applicant and his basic pay has been fixed at Rs. 12450/- with Grade of Rs. 4600 w.e.f.

1.1.2006. It is also brought to our notice that the respondents thereafter vide communication dated 26.6.2019, have also paid arrears to the tune of Rs. 215980 vide cheque No.382141 dated 26.6.2019 after deducting amount of Rs. 53995 as income tax. The learned counsel for the respondents stated that since the claim of the applicant in this OA has been granted, therefore, nothing survives in the OA and accordingly, the present OA deserves to be dismissed.

7. A bare perusal of the documents produced by the respondents makes it clear that the pay of the applicant has been fixed at Rs. 12540 with grade pay of Rs. 4600 w.e.f. 1.1.2006 and the arrears on this count has been paid by the respondents. The learned counsel for the applicant stated that the said payment has been received by him only after approaching this Tribunal on two occasions and that the applicant deserves to be paid interest @ 9% per annum on the arrears paid belatedly by the respondents.

8. We have noticed that vide impugned Memorandum Ann.A/1 dated 20.6.2017, the respondents have justified fixation of pay of the applicant at Rs. 12450 + Grade of Rs. 4600 w.e.f. 11.9.2006. The said Memorandum was issued

in compliance of this Tribunal's order dated 12.4.2017 passed in OA No.126/2017. In reply also, they have justified the said stand. But the documents produced during the course of hearing show that applicant's pay has been fixed w.e.f. 1.1.2006 vide office order dated 3.12.2018 and arrears has also been paid to the applicant vide communication dated 26.6.2019. It is undisputed fact that the respondents themselves have paid the arrears to the applicant fixing his basic pay at Rs. 12450 + Grade Pay of Rs. 4600 w.e.f. 1.1.2006 by passing the order dated 3.12.2018 and 26.6.2019. Earlier, the respondents have justified their action fixing the pay of the applicant w.e.f. 11.9.2006 while issuing the impugned Memorandum Ann.A/1 and thereafter in the reply. But later, the respondents have passed the order dated 3.12.2018 fixing the pay of the applicant w.e.f. 1.1.2006 and thereafter arrears has also been given to him. We do not find any cogent reason for the respondents unnecessarily compelling the applicant to approach this Tribunal on two occasions. Therefore, in these facts and circumstances of the case, we deem it appropriate to direct the respondents to pay interest to the applicant on the arrears paid, at the rates applicable to GPF deposits, from the date of filing of this OA

i.e. 4.7.2017 till the payment is made. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

9. With the above observations, the OA as well as MA stand disposed of with no order as to costs.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/