

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1822/2003

This the 27th day of July, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

Mrs. Saroj Kapila W/O D.R.Kapila,
Welfare Officer, Grade-II,
Children Home, Lajpat Nagar,
New Delhi-110024.
R/O A-179, Dayanand Colony,
Lajpat Nagar,
New Delhi-110024.

... Applicant

(By Shri H.K.Gangwani, Advocate)

-versus-

1. Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054.
2. Director of Social Welfare,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi-110054.
3. Joint Director (Admn),
Department of Social Welfare,
Canning Lane,
New Delhi-110001.

... Respondents

(By Ms. Sumedha Sharma, Advocate)

O R D E R (ORAL)

Applicant had earlier on filed OA No.1321/2001 against the punishment awarded to her in disciplinary proceedings against her. The same was allowed vide order dated 27.9.2002 with the following directions to the respondents :

"6.It is directed that a copy of the documents claimed by the applicant should be supplied as mentioned in her application dated 25.7.1997. The enquiry, if deemed appropriate, may be started from the stage when the documents were refused."

2. The present OA is directed against respondents' inaction in releasing consequential benefits flowing from the Tribunal's aforesaid order dated 27.9.2002.

3. The learned counsel of applicant stated that after punishment in the disciplinary proceedings against the applicant had been quashed and set aside, and no further enquiry has been held against her nor any further punishment has been inflicted upon her, the period of suspension from 6.3.1996 to 10.4.2000 should be treated as spent on duty for all purposes. All her dues such as pay and allowances have to be restored, increments/stagnation increments allowed, her pension should be revised, and she should be considered for according ACP and its benefits.

4. On the other hand, the learned counsel of respondents stated that respondents have paid to the applicant the following amounts :

"(a). Arrears of Stagnation Increment amounting to Rs.44,067/- released on 10.7.2002.

(b). D.C.R.G. amounting to Rs.1,98,810/- released on 3.7.2002.

(c). Commutation of Pension amounting to Rs.1,92,473/- released on 3.7.2002.

(d) G.P.F. amounting to Rs.2,20,542/- released on 2.8.2002.

(e). Earned Leave Encashment amounting to Rs.1,08,698/- released on 28.12.2002.

(f). C.G.E.G.I.S. payment amounting to Rs.13,192/- released on 23.4.2003."

5. At this stage, learned counsel of the applicant disputed the payment of arrears of stagnation increments amounting to Rs.44,067/- which is stated to have been

released on 10.7.2002 by the respondents. The learned counsel of the respondents drew my attention to Annexure-A to the respondents' affidavit of 8.7.2004 which is a copy of the acquittance roll indicating that applicant had received a sum of Rs.44,067/-. Thus, applicant's contention that she has not received the arrears of stagnation increment amounting to Rs.44,067/- released on 10.7.2002 is rejected.

6. The learned counsel of the respondents stated that as the enquiry proceedings are still pending, respondents are not in a position to decide about the status of the applicant's suspension period, as also the benefits such as financial upgradation under the ACP Scheme, revision of pension and arrears thereof, etc. He further stated that applicant shall be given the benefit of fixation of pay in the revised scale w.e.f. 1.1.1996 and also benefit of ACP Scheme will be decided on availability of ACRs, which are not at present traceable.

7. I have considered the rival contentions.

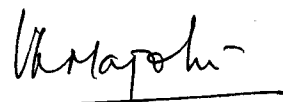
8. The punishment imposed on the applicant was set aside on 27.9.2002 by this Court and respondents were provided liberty to start the enquiry, if deemed appropriate, from the stage when the documents were refused. A period of almost two years has since elapsed but respondents have not taken any steps for resuming the disciplinary enquiry against the applicant. The contention of the respondents is that in view of pendency of disciplinary proceedings against the applicant, they have not been able to decide about her suspension period/pay fixation in the revised scale from 1.1.1996,

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revision in pension etc. Respondents have not produced any material before us regarding contemplation of resumption of disciplinary proceedings against the applicant in terms of Tribunal's order dated 27.9.2002 in OA No.1321/2001. They cannot be allowed to take an unreasonably long period in taking a decision for resumption of disciplinary proceedings against the applicant as denial of consequential benefits now claimed by the applicant in relation to revision of pay, pension etc. on the ground of pendency of disciplinary proceedings against the applicant would be totally unjust and harsh on the applicant. Similarly, non-availability of ACRs cannot be attributed to the applicant which is explored as a ground by the respondents for denial of benefits of ACP.

9. Having regard to the above discussion as also in the interest of justice, respondents are directed to take a final decision on the consequential benefits of the Tribunal's orders dated 27.9.2002 within a period of three months from the date of communication of these orders. Further that in case respondents are not in a position to locate the relevant ACRs of the applicant, respondents should consider according financial upgradation under the ACP Scheme to the applicant deeming that she had attained the requisite benchmark in the relevant ACRs.

10. The OA is allowed in the above terms. No costs.



(V. K. Majotra)
Vice-Chairman (A)

27.7.04

/as/