
(2018) 01 CAT CK 0060
In the Central Administrative Tribunal
Case No : Original Application No. 858 Of 2017

Birpal Singh

APPELLANT

Vs

Delhi Transport Corporation And Others

RESPONDENT

Date of Decision : 12-01-2018

Acts Referred:

Citation : (2018) 01 CAT CK 0060

Hon'ble Judges : Raj Vir Sharma, Member (J)

Bench : Single Bench

Advocate : K.K. Patel, P.K. Singh

Final Decision : Disposed Of

Judgement

Raj Vir Sharma, J

1. Brief facts of the case of the applicant are that he joined the respondent-DTC in the year 1984 as a Crew Driver. In March 1985, he was posted as a regular Driver at Shahdara-I Depot of the respondent-DTC.

Thereafter he was transferred to Nand Nagri Depot of the respondent-DTC in the year 1993. On the basis of the report of the Medical Board of the respondent-DTC declaring the applicant as "unfit" for his continuance in the service of the respondent-DTC as a Driver beyond the age of 55 years, the respondent-DTC retired him from service with effect from 31.1.2012. Being aggrieved thereby, the applicant earlier filed OA No.1840 of 2012 before the Tribunal. The Tribunal, by its order dated 10.7.2013, disposed of O.A.No.1840 of 2012 and directed the respondent-DTC to get the applicant medically re-examined by the prescribed Medical Board of DTC. In compliance of the said order of the Tribunal, the respondent-DTC got the applicant medically re-examined. The prescribed Medical Board, vide its report dated 12.8.2013, again declared the applicant "unfit" to perform the duty of a Driver. Being aggrieved thereby, the applicant again approached the Tribunal, by filing O.A.No.1669 of 2014. The Tribunal, by its order dated 20.7.2016, dismissed the said O.A.No.1669 of 2016. W.P. (C) No.

11891 of 2016 filed against the Tribunal's order dated 20.7.2016(ibid) was dismissed by the Hon'ble High Court of Delhi. It is the grievance of the applicant that during pendency of O.A. Nos. 1840 of 2012 and 1669 of 2014, he made representations 1.12.2012 and 14.8.2014 requesting the respondent-DTC to release his retirement benefits, but the respondent turned down his request. It is also the grievance of the applicant that after dismissal of O.A.No.1669 of 2016 by the Tribunal, he made another representation dated 12.12.2016 regarding release of his retirement benefits, but the respondent-DTC did not pay any heed thereto. Hence, he filed the present O.A.28.3.2017 seeking the following reliefs:

"(a) Call for the records of the case;

(b) Direct the Respondents to release all the retirement benefits of the applicant, namely, Gratuity, Provident Fund etc. which is payable to the applicant under the Rules of Delhi Transport Corporation and has been kept under the custody of the Respondent-Corporation after his retirement on attaining 55 years along with interest @ 18% per annum on the delayed payment of all retirement benefits till the date of actual payment.

(c) Award exemplary costs of the proceedings;

(d) Pass such further order or orders which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."

2. Resisting the O.A., the respondents have filed a counter reply. The respondents have stated, inter alia, that the applicant was declared medically "unfit" to perform the duty of a Driver after completion of 55 years of his age and was, therefore, retired from service with effect from 31.1.2012, vide letter No.NND/PFC/Dr./2012/58 dated 5.1.2012. They issued a Releasing Memo, vide letter No.NND/Sett./2011/331, dated 30.1.2012, in favour of the applicant for payment of gratuity, provident fund, etc.. The respondent-DTC also sent a letter, through Speed Post, requesting the applicant to collect the aforesaid Releasing Memo of gratuity, provident fund, etc., but the applicant did not collect the same and, per contra, verbally informed the respondents that his case was under consideration before the Court and the same would be obtained after the decision of the Court. In view of the above, it is submitted by the respondents that the O.A. filed by the applicant is premature, baseless and without any cause of action and that the allegations made by the applicant in the O.A. are false and, therefore, the O.A. is liable to be dismissed.

3. The applicant has filed a rejoinder reply refuting the stand taken by the respondents.

4. It has been submitted by Mr.K.K.Patel, learned counsel appearing for the applicant that during pendency of this O.A., the applicant has received the entire retirement benefits without any interest thereon for the period of delay. Therefore, the only remaining grievance of the applicant is with regard to the payment of interest on the retirement benefits for the period of delay, and

appropriate direction should be issued to the respondents to pay the same to the applicant within a stipulated period.

5. Per contra, it has been submitted by Mr.P.K.Singh, learned counsel appearing for the respondents, that since the applicant had failed to collect the Releasing Memo, dated 30.1.2012 (bid) for payment of his retirement benefits soon after retirement and had verbally informed the respondents that his case was under consideration before the Court and the same would be obtained after the decision of the Court, the respondents cannot be said to have willfully and deliberately withheld the payment of the applicant's retirement benefits. Therefore, the applicant's claim for interest is untenable.

6. Save and except making an oral submission that during pendency of this O.A the applicant has received the entire retiral benefits, Mr.K.K.Patel, learned counsel appearing for the applicant, has not produced before this Tribunal the copy of any sanction order, releasing memo, or any other document, on the basis of which the retirement benefits have been released/paid to the applicant during pendency of this O.A.No.858 of 2017. Therefore, this Tribunal is unable to ascertain the exact date of release of the retirement benefits by the respondent-DTC and date of receipt of the same by the applicant. Since Mr.K.K.Patel made the aforesaid submission only at the time when the O.A. was taken up for hearing, the respondents or, for that matter, Mr.P.K.Singh, learned counsel appearing for the respondents, were unable to apprise the Tribunal of the correct position. This apart, the respondents have also not produced before this Tribunal the copies of Releasing Memo dated 30.1.2012(ibid) for payment of Gratuity, provident fund, etc., and of the letter which is stated to have been despatched by them to the applicant through Speed Post informing/requiring him to collect the Releasing Memo dated 30.1.2012 and to deposit the Corporation's articles, etc.. In the above view of the matter, this Tribunal is not in a position to arrive at a clear finding as to the entitlement, or otherwise, of the applicant for interest on his retirement benefits for the period of delay, if any. Considering the totality of the facts and circumstances of the case, I direct the Chairman of the respondent-DTC (respondent no.1) to examine the whole records pertaining to the applicant and release/payment of retirement benefits to him and to decide the applicant's claim for payment of interest on his retirement benefits by passing a speaking order within a period of three months from today. Needless to say that the speaking order to be so passed by the Chairman of the respondent-DTC shall be communicated to the applicant. In the event the applicant still feels aggrieved by the decision of the Chairman of the respondent-DTC, he is at liberty to approach the Tribunal by filing a fresh Original Application within the prescribed period of limitation, if so advised.

7. With the above observation and direction, the O.A.is disposed of. No costs.