

**(2021) 05 CAT CK 0008**

**In the Central Administrative Tribunal**

**Case No :** Original Application No. 764 Of 2020, Miscellaneous Application No. 956 Of 2020

Ganga Prasad & Others

APPELLANT

Vs

Mahanagar Telephone Nigam Ltd

RESPONDENT

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**Date of Decision :** 12-05-2021

**Acts Referred:**

**Citation :** (2021) 05 CAT CK 0008

**Hon'ble Judges :** Tarun Shridhar, Member (A)

**Bench :** Single Bench

**Advocate :** P. S. Sharma, Vandana Bhatia

**Final Decision :** Disposed Of

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## **Judgement**

Tarun Shridhar, Member (A)

1. The applicants are agitating non-payment of their retiral dues such as gratuity, ex-gratia and terminal benefits etc. The applicants were all

employees of Mahanagar Telephone Nigam Limited (MTNL) who opted to seek retirement benefits pursuant to Voluntary Retirement Scheme (VRS)

introduced by the organization. The scheme states that the payment of ex-gratia and gratuity shall be paid to the employees opting for retirement only

on the conclusion of departmental/judicial proceedings, if any. The learned counsel for the applicants submits that as on date there is no judicial or

departmental proceedings or any proceedings which can be termed as an impediment for release of gratuity and ex-gratia pending against the

applicants. He further adds that there is no recovery also to be made from the applicants. He draws attention to office memorandum dated 31.01.2020

signed by Dy. General Manager which on the one hand says there is no

disciplinary/vigilance case pending/contemplated against the official but in the next sentence goes on to say that departmental/judicial proceeding is pending. This further obscures the issue.

2. Learned counsel for the respondent submits that perhaps only some case of civil nature including the present and another OA are pending but in my view, this will certainly be not termed as judicial proceeding in respect of the applicants which should be a bar for release of ex-gratia gratuity and any other dues in accordance with the scheme.

3. It is not in doubt that the applicants had sought voluntary retirement only on the basis of the scheme introduced by the respondent-organisation.

Hence, on the assurance that subsequent to opting for the retirement they would be paid all the financial benefits that would have accrued to them.

However, on this specious plea that some judicial proceeding in the nature of present and similar OA is being contested between the parties, it is a very illogical to withhold the terminal benefits of the applicants. Learned counsel for the respondent draws support from the judgment of Honâ??ble

Allahabad High Court in the case of Shiv Gopal & Ors. Vs. State of U.P. & Ors .wherein the Honâ??ble Allahabad High Court had held that

judicial proceedings includes civil cases. She also relied on a judgment of the Honâ??ble Apex Court in Govinda Menon Vs. UOI. Now, while

appreciating the context of this judgment it cannot be held that the OA in the Tribunal or even a similar matter between two parties would be of such

nature as to support and justify withholding of terminal benefits of an employee who has opted for voluntary retirement pursuant to a scheme drawn

by the department. Moreover, there is nothing on record to show that the judicial proceeding is of such nature as to subject the applicants to some

recovery.

4. In view of the above, this OA is disposed of with a direction to the respondent to take a decision on the sanction of release of gratuity and ex-gartia

and other admissible terminal benefits if there is no other legal embargo for the same. Needless to say that the authority sanctioning the retiral and

other benefits shall exercise due financial diligence and take a decision strictly in accordance with the guidelines and provisions of the voluntary

retirement scheme. However, the authority will not take shelter behind clause 7 and this pending OA and other similar OAs which have no bearing on

this case shall not be an excuse to deny the legitimate retiral financial claims.

5. The respondents shall take a final decision in the matter within a period of six weeks from the date of receipt of this order. The said decision should

be intimated by the respondents through email and other means to the applicant.

6. Pending MA(s) if any, shall also stand disposed of accordingly. There shall be no order as to costs.