(2019) 02 CAT CK 0151

In the Central Administrative Tribunal

Case No : Original Application No. 4086 Of 2017

Jai Singh APPELLANT

Vs

Delhi Transport Corporation RESPONDENT

Date of Decision : 18-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0151

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Advocate : K.K .Patel, Ayushya Kumar

Final Decision : Dismissed

Judgement

1. The applicant herein was appointed as Driver in Delhi Transport Corporation (DTC). As per rules in force, medical examination was to be conducted at the time the applicant attained the age of 55 years. He was not found medically fit at this stage and hence he was to be superannuated on medical grounds w.e.f. 30.06.2013. For this purpose, the respondents issued a letter dated 24.05.2013. A copy of the same was also supplied to the applicant. In this letter, the applicant was also advised to contact the settlement clerk for settling the retiral dues. Certain forms are required to be filled by every employee at the time of retirement so that retiral dues could be paid to the employee. The applicant did not fill these forms.

In the instant case, the applicant felt aggrieved by this superannuation on medical grounds and challenged the decision in OA No.1664/2014. This OA was dismissed vide Tribunal's order dated 05.03.2015. Being not satisfied, the applicant challenged the Tribunal's decision before the Hon'ble High Court of Delhi vide WP (C) No.7290/2017. This writ was dismissed by the Hon'ble High Court on 23.08.2017.

2. It was only thereafter that the applicant approached the respondents vide his letter dated 24.08.2017 wherein he advised that he had retired on 30.06.2013

and had not taken his dues so far and requested that gratuity, GPF, bonus and leave encashment etc. may be released. It was only at this stage that he submitted the requisite affidavits and the other attestation forms etc. for the first time, which are required to be filled in at the time of retirement. These were submitted on 04.12.2017 only.

3. Thereafter, all the retiral dues were released. The applicant had approached the Tribunal in the instant OA, seeking interest on the delayed payment of retiral dues from 2013 to 2018.

4. The applicant relied upon two judgments by Hon'ble Supreme Court as under:

(i) Dr. Uma Agrawal vs. State of U.P. and another, (1999) 3 SCC 438

(ii) State of Jharkhand & ors. vs. Jitender Kumar Srivastava, (2013) 12 SCC 210.

5. The respondents opposed the application pleading that the decision to superannuate the applicant on health ground was communicated to the applicant on 24.05.2013.This was challenged by the applicant in OA No.1664/2014, which was dismissed on 05.03.2015. Thereafter the applicant challenged the Tribunal's decision in Hon'ble High Court in 2017 only. However, that writ was also dismissed vide orders dated 23.08.2017.

During this time, the respondents had already prepared the calculations in respect of gratuity and issued necessary directives with a copy to the applicant for releasing the total amount of gratuity on 27.06.2013 itself. Similarly, in respect of Provident Fund also such an advice for payment was issued on 06.08.2013.

The applicant herein was also advised on 05.08.2013 to submit five copies of cancelled cheques so that retiral benefits could be released. These letters were sent to the applicant through registered post.

6. In view of this, while the respondents had been taking all the necessary actions to release the retiral dues immediately after his superannuation on medical grounds on 30.06.2013, yet it was the applicant who was not ready to receive these payments, perhaps on the reasoning that his challenge to the retirement on health grounds is pending firstly with the Tribunal and thereafter in the Hon'ble High Court. In fact, there has been unexplained delay of almost two years between the dismissal by the Tribunal on 05.03.2015 and challenge to the same in Hon'ble High Court of Delhi in the year 2017.

7. It was also pleaded that the two judgments by Hon'ble Apex Court quoted by the applicant are in a different context wherein while gratuity and pension etc. have been taken to be a vested right, however, interest is payable only if there has been delay on the part of the respondents.

In the instant case, whatever delay has happened, the same is due to the applicant only because he has not taken necessary action to submit the forms which are required to be submitted at the time of superannuation by all employees. He challenged his superannuation in Tribunal and Hon'ble High Court and may have expected vindication of his plea as in that event, he would have retired five years later on attaining the age of 60 years in the year 2018. However, in the end, the applicant's pleas were not accepted at both these fora. Hence, no interest is payable, as delay in payment was on account of applicant only.

8. Matter has been heard at length. Sh. K.K.Patel, learned counsel represented the applicant and Sh. Ayushya Kumar, learned counsel represented the respondents.

9. The facts of this matter are not in doubt. Applicant vide order dated 24.05.2013 was retired on 30.06.2013 as he was declared medically unfit to continue as a Driver. Safety implications are obvious. Hence, it cannot be faulted.

The applicant was not satisfied with this order and had challenged the same firstly before the Tribunal and being unsuccessful, thereafter before Hon'ble High Court of Delhi. It was only after both these efforts failed, the applicant had submitted the requisite forms to the respondents for release of retiral dues.

The respondents had all along prepared the calculations and issued sanctions for releasing the dues as is very clearly visible from the counter affidavit where a copy of respective sanction letters has also been submitted.

10. The thought process going on in the mind of applicant at the time he was made to retire on 30.06.2013, is not difficult to imagine. He was not satisfied with this superannuation and felt that his efforts in Tribunal and High Court may succeed. Now that those efforts have come to naught, he wants to take advantage of the delay which was caused due to his own decision to challenge and as such not to receive payments, and now he is claiming the interest. Submission of forms on 24.08.2017, immediately after his writ was dismissed by Hon'ble High Court on 23.08.2017, is a clear pointer. Therefore, claim for interest cannot be accepted.

11. The applicant had also questioned the very rule wherein the employees are required to supply the filled in documents at the time of retirement. This argument is rejected on the face of it because such documents are necessary so that payments go to correct bank account and correct persons including eligible family members. Accordingly, it is the normal practice and all employees are required to submit the same.

12. In view of the foregoing, OA is dismissed being devoid of merit. No order as to costs.

