

(2019) 08 CAT CK 0049

In the Central Administrative Tribunal

Case No : Original Application No. 3862 Of 2016

Jasbir Singh Sodhi Retired Assistant Engineer

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 22-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)
Central Civil Services (Pension) Rules, 1972, — Rule 59(1)(c)(iii)

Citation : (2019) 08 CAT CK 0049

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Dheeraj Kumar Nayal, Dr. Ch. Shamsuddin Khan

Final Decision : Disposed Off

Judgement

1. Heard learned counsel for the parties and perused the pleadings available on record.

2. By filing this OA, the applicant is seeking the following reliefs:-

(a) Issue order or direction to the Competent Authority of Respondents to pay the amount of Gratuity to the applicant.

(b) Issue further directions and orders to pay interest on delay payment on gratuity w.e.f 31.08.1997 to till actual realization of the payment.

(c) Issue order or direction to the respondents to release the interest on delayed payment of salary and other arrear of suspension period w.e.f 24.11.1995 to 19.07.2012.

(d) Direct respondents to pay interest 18% p.a. on the delayed payments of the salary and gratuity.

(e) Any other or further order in favour of the applicant on the facts and circumstances of this as may be deemed fit or proper may also be passed.

2. Brief facts of the case as stated by the applicant are that applicant - Jasbir Singh Sodhi, enrolled in Military Engineering Service (M.E.S.) on 01.10.1963 and in the year 1991-1992, he was posted as Assistant Engineer (Electrical & Mechanical) in M.E.S Dehradun. In 1992, Indian Military Academy, Dehradun decided to provide Sodium Light Fittings and in 1993, a superior officer, Garrison Engineer, Prem Nagar Dehradun called two Tenders for two different areas and accepted the lowest Tenders. Applicant was then made Engineer-in-Charge to execute said Contracts. Some Officer made complaint against applicant and C.B.I. registered a case at Dehradun against applicant being Crime No. R.C.22 (a)/93-DAD, Section 120 B, under Section 420 I.P.C and Section 13(2) read with 13(1)(d) Corruption Prevention Act, 1988.

2.1 Upon registration of said criminal case against applicant, Respondent no. 3 passed order dated 24.11.1995 placing the applicant under suspension with immediate effect. Further on 24.11.1995, respondent no. 3 ordered to pay Subsistence Allowance only to Applicant till further order.

2.2 In the meanwhile, on 31.08.1997, applicant retired/superannuated from service pending trial of said criminal case and suspension.

2.3 On 22.04.2000, applicant represented to Respondents for settlement of discrepancies in his GPF. Thereafter on 09.12.2010, applicant was honourably discharged by the Hon'ble Court of Special Judge, P.C.Act (C.B.I.) Dehradun from the said case, vide judgment and order dated 09.12.2010. On 31.12.2010, applicant received the certified copy of the order and judgment dated 09.12.2010 and send the same with his Registered Letter dated 31.12.2010 to the Respondent no. 5, requesting for grant of his claims and dues. Thereafter on 24.01.2011 applicant visited HQs Chief Engineer Jaipur Zone in connection with his payment of dues/arrears. He also wrote registered letter 25.04.2011 to HQs Chief Engineer Jaipur Zone in connection with his payment of dues/arrears. Thereafter he wrote another letter dated 21.07.2011 to HQ Engineer in Chief, Kashmiri House, New Delhi, requesting for intimation of action taken and time expected to be taken in payment of his dues/arrears and retiral dues (Salary, Arrear, Funds and Gratuity).

2.4 On 28.10.2011, feeling aggrieved, the applicant filed OA No. 2967/2012 before the Hon'ble Tribunal (P.B.) New Delhi for the payment of retiral dues and consequential benefits. On 19.7.2012, the respondents have paid the amount of balance salary and Leave Encashment during the pendency of the OA after filing said OA. Thereafter the said OA was dismissed as withdrawn with liberty to file fresh OA on the same cause of action after removing the defects vide Order dated 23.05.2016.

2.5 Hence the applicant has filed this OA seeking the aforesaid reliefs.

3. In the instant OA, the applicant is seeking the directions to respondents to pay the amount of gratuity as well as interest on delay in payment of gratuity w.e.f. 31. 8.1997 till actual realization of the same and further interest on delayed

payment of salary and other arrear of suspension period w.e.f 24.11.1995 to 19.07.2012 @ 18 %.

4. Pursuant to notice, the respondents have filed their reply in which they have stated the applicant was placed under suspension vide Order dated 24.11.1995 consequent upon registration of Crime No. R.C.22 (a)/93-DAD, Section 120 B, under Section 420 I.P.C and Section 13(2) read with 13(1)(d) Corruption Prevention Act, 1988 against the applicant. During the pendency of the said case, the applicant retired on 31.8.1997. However when the said case was decided by the competent court in favour of the applicant vide judgment dated 9.12.2010, the suspension ordered vide order dated 24.11.1995 was revoked by the respondents vide order passed by HQ CESC dated 8.5.2012 which was received under HQ CESWC letter dated 16.5.2012 and accordingly Part-II order was published vide HQ PTO dated 18.5.2012 and in terms of the above letter, the payment of suspension period and difference of unutilized EL Rs.1,89,622/- (Rupees One Lakh Eighty Nine Thousand Six Hundred Twenty Two only) were already paid to the applicant vide Cheque No.020900 dated 14.07.2012.

4.1 They further stated that blank form on a/c of revision of gratuity claim was forwarded to the applicant vide HQ Chief Engineer, Jaipur Zone letter No.P/100/JSS/88/EIO (O) dated 14.10.2013 but the same has not been signed by the applicant and returned to HQ Chief Engineer, Jaipur Zone unsigned stating that the process of completion, with medical examination certificate was in process and would be dispatched very shortly duly completed. Thereafter another blank form on a/c of revision of Gratuity claim was again forwarded to the applicant vide respondents' office letter No.P/100/JSS/103/E1O (O) dated 29.04.2017, but the same has not been signed by the applicant and returned to HQ Chief Engineer, Jaipur Zone unsigned stating that his counsel advised him to return the envelop "as it is" to HQ Chief Engineer, Jaipur Zone since the subject matter issue is sub-judice in the Hon'ble Principal Bench of this Tribunal.

5. From the aforesaid bare minimum facts, so far as interest claim of the applicant with regard to delayed payment of amount of salary and other arrear of suspension period w.e.f 24.11.1995 to 19.07.2012 is concerned, it is evidently clear that applicant was discharged from the said criminal case vide judgment dated 9.12.2010 and thereafter after passing the order of revocation of suspension of the applicant w.e.f. 24.11.1995 vide order dated 8.5.2012, the respondents have passed order on 18.5.2012 for release of arrears of payment of salary and other arrear of suspension period w.e.f 24.11.1995 to 19.07.2012, which was admittedly received by the applicant vide Cheque dated 14.7.2012 as receipt of the same has not been disputed by the applicant. As such in the aforesaid factual circumstances of this case, this Tribunal does not incline to accede to the claim of the applicant for grant of interest on the aforesaid delayed payment.

6. So far as further claim of the applicant with regard to direction to respondents to pay the amount of gratuity as well as interest on delay in payment of gratuity

w.e.f. 31.8.1997 till actual realization of the same is concerned, the respondents have clearly stated that twice the blank form on account of revision of gratuity was sent to the applicant as on the first occasion vide letter dated 14.10.2013 but the same has not been signed by the applicant and returned to HQ Chief Engineer, Jaipur Zone unsigned, stating that the process of completion, with medical examination certificate was in process and would be dispatched very shortly duly completed and on second occasion vide letter dated 29. 04.2017, but the same has not again been signed by the applicant and returned to HQ Chief Engineer, Jaipur Zone unsigned stating that his counsel advised him to return the envelop "as it is" to HQ Chief Engineer, Jaipur Zone since the subject matter issue is sub-judice in the Hon'ble Principal Bench of this Tribunal. As such in the aforesaid factual circumstances, the delay in making the payment of gratuity amount to the applicant cannot be attributable on the part of the respondents since CRO(O) Delhi Cantt, could not process his pension case to PCDA(P) Allahabad for want of following documents from the applicant:-

(a) Commutation application with Medical Examination;

(b) Nomination for commutation pension But the same has not yet been provided by the applicant to enable the respondents to process his case of pension as well as for release of admissible amount of gratuity to him.

7. In view of the above facts and circumstances of this case and for the reasons stated above, this Tribunal does not find any merit in this OA and the same is accordingly dismissed.

8. However, the applicant is directed to furnish the requisite documents/form(s) to the competent authority of the respondents to enable them to process his case for release of admissible amount of Gratuity as well as other pensionary benefits in accordance with law immediately. Thereafter the respondents are directed to release the same within the a period of 90 days from the date of receipt of such required information/documents from the applicant, although this Tribunal is aware that there is a provision under Rule 59(1)(c)(iii) of CCS Pension Rules that the pension papers shall be forwarded to the Head Office not later than eight months before the date of retirement of the Government servant but 90 days' time is given to the respondents to finally dispose of all pending claims as this is an old matter and the fact that applicant did not submit his pension papers for pensionary claims as he was advised by his counsel to return the envelop "as it is" to the respondents when he was asked to fill the requisite form on the ground that the subject matter is sub-judice before the Tribunal. If there is any delay in making the payment on the part of the respondents after submission of filled/required performa then the applicant is entitled to interest on the same from the expiry of aforesaid period till the actual realization of the same at the rate admissible on GPF. There shall be no order as to costs.