
(2018) 09 CAT CK 0114

In the Central Administrative Tribunal

Case No : Original Application No. 928 Of 2017

Mansa Ram

APPELLANT

Vs

Police Commissioner Delhi And Ors

RESPONDENT

Date of Decision : 17-09-2018

Acts Referred:

Citation : (2018) 09 CAT CK 0114

Hon'ble Judges : Praveen Mahajan, Member (A)

Bench : Single Bench

Advocate : Bipin Kumar Jha, Sumedha Sharma

Final Decision : Allowed

Judgement

1. Briefly stated, the facts of the current O.A. are that the applicant was appointed as Constable in Delhi Police in 1970. He was promoted upto the level of Sub Inspector in Delhi Police. During his service tenure, he was granted various rewards and commendation certificates. A FIR No. 112/2008 dated 02.05.2008 was lodged at P.S. Civil Line u/s POC Act by Constable Navratan for demanding and accepting Rs. 1200/- by the applicant along with Sh. Sumer Singh. For the said act, the applicant was suspended. During the pendency of the trial, he retired from service on 31.12.2010. The applicant was convicted by Ld. Special Judge, Tis Hazari Court, Delhi vide judgment dated 30.04.2012 and 03.05.2012, and sentenced to 2 ½ years rigorous imprisonment with fine of Rs.7500/- each for the above said offences. The applicant filed a Criminal Appeal No. 609/2012 before the Hon'ble High Court of Delhi, who vide order dated 23.05.2012 suspended the aforementioned sentence. The said appeal is reported to be pending for adjudication.

2. The applicant submits that after retirement on 31.12.2010, he is getting pension according to 6th Central Pay Commission and other retiral benefits have not been released by the respondents. He also submits that he has been falsely implicated in the above said case. To get his rightful dues, the applicant served a

legal notice on the respondents on 30.11.2016. The legal notice sent to Joint Commissioner of Police was returned back with the remarks that no such person is available at the mentioned address. On 11.01.2017 the respondents replied to the legal notice and rejected the prayer of the applicant for releasing his retiral benefits on the ground that his criminal case is pending before the Hon'ble High Court. Aggrieved by the said order, the applicant has filed the current O.A. seeking the following reliefs:-

"(a) Allow the present application and quash the impugned/reply/letter dated 11.01.2017 issued by the respondent no.3 on behalf of the respondents no. 1 & 2.

(b) Direct the respondents to release the retiral benefit of the applicant i.e. payment of the PF amount and gratuity and other allowances which is due against the respondents/Delhi Police Department in favor of the applicant.

(c) Direct the respondents to pay the pension of the applicant as per 7th pay scale from the date of notification of the 7th pay scale."

3. In reply, the respondents without disputing the facts of the case have stated that due to pendency of the Criminal Appeal No.609/2012, the claim of the applicant cannot be considered. His case will be reviewed after decision of the Hon'ble High Court of Delhi in Criminal Appeal.

4. I have carefully gone through the facts of the case and considered the rival contentions.

4.1 The applicant in O.A. retired from the services of Delhi Police in 2010. As stated earlier, he was convicted by the Ld. Special Judge, Tis Hazari Court, Delhi in CC No. 16/12 u/s 7/13 of Prevention of Corruption Act, 1988 vide judgment dated 30.04.2012 and 03.05.2012 and sentenced for 2 ½ years rigorous imprisonment with fine of Rs.7500/-. The said judgment is the result of an FIR lodged against the applicant by his colleague alleging that the applicant received Rs.1200/- for his posting near his house. On account of a Criminal Appeal filed before the Hon'ble High Court of Delhi, the sentence awarded by the Ld. Special Judge has been suspended.

4.2 The applicant in the O.A. has urged that the respondents be directed to release his retiral benefits i.e. gratuity, PF and other allowances, which are legally due to him. Respondents' contention is that the claim of the applicant cannot be considered on account of the pendency of the Criminal Appeal No. 609/2012.

5. The respondents have not averred (either in the OA or during oral hearing) that any government dues are recoverable from the applicant or might become recoverable after decision of the Criminal Appeal pending in Hon'ble High Court of Delhi. The order of Ld. Special Judge, (under challenge before the Hon'ble High Court) imposed a punishment of 2 ½ years rigorous imprisonment on the applicant, with a fine of Rs. 7500/-. There is no accompanying order for any

recovery from the applicant or a finding that some amount might become recoverable from the applicant, in future.

6. The applicant retired eight years ago and is yet to receive his pensionary benefits. Due to huge pendency of such cases, it is possible that the case might get delayed further. In the meantime, the applicant cannot be allowed to languish in penury especially when there is no order of regarding withholding of retiral benefits of the applicant by any Court of Law nor such a plea is forthcoming from the respondents.

7. In view of these facts, I feel that the withheld retiral benefits, which have not been released in favour of the applicant, should be released to him forthwith, as per law. The applicant has also prayed for re-fixation of his pension under the 7th CPC. From the counter filed by the respondents, it appears that his case for revising the pension as per 7th CPC is already under active consideration by the respondents.

8. In view of the aforementioned facts, the respondents are directed to revisit the pension of the applicant as per 7th CPC and grant him the eligible pension, expeditiously. His other retiral benefits like leave encashment, GPF etc. should also be released in favour of the applicant within three months from the date of receipt of a certified copy of this order. The O.A. is accordingly allowed. No costs.