
(2019) 01 CAT CK 0110

In the Central Administrative Tribunal

Case No : Original Application No. 1782 Of 2015, Miscellaneous Application No. 4904 Of 2018

M.L. Sharma

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0110

Hon'ble Judges : L. Narasimha Reddy, J;Pradeep Kumar, Member (A)

Bench : Division Bench

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. Learned counsel for the applicant submits that his failure to attend the court on the day on which the OA was called out, was due to the reasons beyond his control.
2. We are satisfied with the reasons assigned in the application. The MA is accordingly allowed and the order dated 31.10.2018 passed in OA No.1782/2015 is set aside and the OA is restored to its original number.
3. The applicant was working as Joint Director in the Ministry of Corporate Affairs. Disciplinary proceedings were initiated against him in the year 2003, and an order of compulsory retirement was passed on 20.09.2006. The same was challenged in OA No.1738/2007 before this Tribunal. It was allowed on 06.03.2009.
4. The applicant attained the age of superannuation on 30.11.2006. Therefore, he was entitled to be extended the retiral benefits. However, on the ground that another set of disciplinary proceedings and an FIR instituted by the CBI are pending against the applicant, provisional pension was granted. Writ Petition No.10110/2009 filed by the respondents against the order in OA No.1738/2007

was dismissed vide order dated 18.03.2010.

5. This OA is filed with a prayer to direct the respondents to release the various benefits, such as, refixation of pension, opening of sealed cover for promotion to SAG, payment of salary consequent on promotion, Gratuity with interest for delay payment, difference of cash equivalent to salary, payment of transfer TA, and TA in respect of travels made by him in connection with the CBI case.

6. The applicant contends that though the criminal proceedings instituted by the CBI on the allegation of disproportionate assets was quashed by the Hon'ble Gujarat High Court on 07.11.2014, the respondents have not chosen to release the amounts.

7. The respondents filed a counter affidavit opposing the OA. It is stated that almost all the benefits have been extended to the applicant once the criminal case and disciplinary proceedings ended in his favour, and that nothing remains to be paid to him.

8. We heard the applicant who argued his case in person and Shri Gyanendra Singh, learned counsel for the respondents.

9. It is no doubt true that the order of compulsory retirement was set aside by this Tribunal in OA No.1738/2007. The fact, however, remains that by that time the applicant attained the age of superannuation, a criminal case and disciplinary proceedings were pending. Obviously, for that reason, only the provisional pension was released.

The FIR against the applicant was quashed by the Hon'ble Gujarat High Court on 17.07.2014. Based upon that, the corresponding disciplinary proceedings were also closed. Then, it became possible for the respondents to sanction the pension and to open the sealed cover for promotion.

10. In the counter affidavit, it is clearly mentioned that the sealed cover was opened and the applicant was extended the benefit of promotion to SAG. It is also stated that the regular pension was fixed and other amounts such as Gratuity, TA were paid to him. Out of the 8 amounts claimed, only 2 items are left over, i.e., TA claimed by the applicant for making travels in connection with the CBI Special case and the departmental proceedings, and interest on delayed payment of pension.

11. Firstly, the question of a charged employee being paid for the journeys made to defend himself in the proceedings instituted against him, does not arise. Secondly, the occasion to award interest would arise only if there is any deliberate delay on the part of the respondents. In its order dated 18.03.2010 passed in Writ Petition No.10110/2009, the Hon'ble Delhi High Court did not direct the payment of interest. Things would also have been different altogether had there not been any obstacle for the respondents to release the amounts. Unless and until, the disciplinary proceedings were given a quietus, there was no occasion for them to extend the benefit.

12. We, therefore, dispose of the OA by taking note of the plea of the respondents that the various amounts claimed by the applicant have since been released, and nothing is due to him.

13. The applicant submits that he is claiming the benefits of recommendations of 7th Pay Commission. This is not the subject matter of the OA and if the applicant is so interested, he can make a representation and pursue the remedy in accordance with law.

There shall be no order as to costs.