
(2018) 12 CAT CK 0059

In the Central Administrative Tribunal

Case No : Original Application No. 3584 Of 2018

Sunil Kumar Mehra

APPELLANT

Vs

East Delhi Municipal Corporation

RESPONDENT

Date of Decision : 19-12-2018

Acts Referred:

Citation : (2018) 12 CAT CK 0059

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

Bench : Single Bench

Advocate : Umesh Joshi

Final Decision : Allowed

Judgement

1. The applicant in the OA retired from East Delhi Municipal Corporation after attaining the age of superannuation on 30.11.2017. Through the medium of this OA, the applicant seeks intervention of the Tribunal to direct the respondent to pay his retiral benefits i.e. Gratuity and Commutation of Pension amount w.e.f. 01.12.2017, with interest, till the date the pending amount is paid by the respondents to the applicant.
2. It is not disputed by the respondents that the applicant worked as Chief Town Planner with the respondents. The respondents submit that leave encashment and GPF alongwith GIS due to applicant has been paid to the applicant however EDMC has not been able to pay full and final dues to the retiring employees (including the applicant) due to paucity of funds.
3. During the course of hearing, the applicant in person, agitated the issue of non receipt of his legal retiral dues - namely, his gratuity and commutation amount of pension.
4. The learned counsel for the respondents Shri Umesh Joshi informed the bench that the EDMC is facing acute shortage of funds and is not able to generate enough funds to meet even the expenditure of salaries to its employees.

Resultantly, many employees have entered into litigation and the respondents (EDMC) in many cases are facing frequent bank attachments which further delays the payments to the employees. The learned counsel submitted that to overcome this crisis the EDMC has evolved a method of queue based system on first come first served basis. As a result, gratuity and commutation pension of only those employees, who retired on or before 31.12.2015 has been made. He also mentioned that non implementation of Delhi Finance Commission recommendations by the Government (GNCTD) is the main cause of the financial crunch.

5. The applicant in the OA has placed reliance on the decision of the Hon'ble High Court of Chhattisgarh, Bilaspur (Karnail Singh Vs. General Manager, Bishrampur) in W.A. No.56/2017 dated 17.03.2017 as well as the decision of the Hon'ble Apex Court in the case of Y.K.Singla Vs. Punjab National Bank & Ors. Civil Appeal No.9087/2012 (arising out of SLP (Civil) No.14570 of 2012) wherein it has been held that mandate of the Gratuity Act, 1972 has to be followed in toto by the respective respondents. In case the payment is not made to the retiring employee within the stipulated period of 30 days the employer is bound statutorily to pay the interest on the gratuity amount.

6. The applicant in person had also filed a complaint before the National Human Rights Commission regarding non releasing of terminal benefits. The respondents had also approached the Hon'ble High Court of Delhi in the matter of East Delhi Municipal Corporation Vs. Shri Vinod Kumar Khurana WP(C) No.5714/2018 which was disposed of on 25.05.2018 directing that the Commissioner, EDMC may explain the financial crisis of EDMC before NHRC on 29.05.2018, however, the copy of the judgment is not on record.

7. I have gone through the facts of the case and considered the rival submissions carefully. It is indeed unfortunate that Senior Citizens like the applicant, are being denied their rightful dues for no fault of theirs. The respondents plea that the terminal benefits are not being paid to the retirees on account of financial crunch in the respondent organisation is anything but acceptable.

8. While it is perhaps a fact that the respondents are facing an unenviable situation of financial crunch but whatever be the cause for the alleged crisis, a senior citizen cannot be denied his rightful retiral dues on account of mismanagement of the respondents. It is not understood as to why the respondents did not pursue the matter vigorously with GNCTD to ensure that innocent employees are not made to bear the brunt of their poor housekeeping.

9. After having put in decades of sincere service with the respondents, the applicant cannot be faulted for having a legitimate expectation to receive his dues on time to enable him to spend the sunset years of his life, in reasonable comfort. The respondents must take necessary steps, including taking up the matter with GNCTD to get the issue settled expeditiously to ensure that all payments are made on time to its employees.

10. The respondents are directed to ensure that payment of gratuity and commutation of pension to the applicant is made within three months from the date of issue of this order. The retiral dues have to be received/paid within a reasonable period to the employees. Due to excessive delay in disbursement, the respondents are also directed to pay interest on the gratuity amount of the applicant 30 days after it became due to the applicant, at GPF Rates, till the date of actual amount. Similarly, interest on commutation of pension must also be paid three months after it became due till the date of actual payment. OA is allowed. No costs.