

Nm Goel Vs. Uoi and Others

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Court : Delhi

Decided On : Feb-23-2012

Judge : Badar Durrez Ahmed & V.K. Jain

Appeal No. : W.P.(C) 1467 of 2011

Appellant : Nm Goel

Respondent : Uoi and Others

Judgement :

BADAR DURREZ AHMED

(ORAL)

1. The petitioner made the following claims before the Central Administrative Tribunal, Principal Bench, New Delhi in the Original Application No.1058/2010:-

(i) payment of the balance dues of the Applicant after calculating his pay correctly as per their own guidelines;

(ii) payment of bonus for the year 2008-09 based upon the corrected salary;

(iii) terminal passage for the family of the Applicant to travel to India;

(iv) payment of the amount of leave encashment as per the rules; and

(v) re-calculation of the gratuity on the basis of the re-fixation of the pay and including the Cost of Living Allowance (COLA).

2. The petitioner's said OA was dismissed by the Tribunal by virtue of the impugned order dated 29.11.2010. The petitioner retired from the High Commission of India in UK from the post of Senior Administrative Officer on 31.03.2009 and it is in that backdrop that he has claimed the above-mentioned reliefs.

3. Before us, the learned counsel for the petitioner has only pressed for the relief pertaining to grant of bonus and the correct computation in so far as the Cost of Living Allowance (COLA) is concerned.

4. In so far as the petitioner's claim with regard to bonus is concerned, the Tribunal observed that the petitioner was not eligible for bonus because under the prevailing practice, bonus was payable only 12 months after the payment of the last bonus. According to the Tribunal, since the petitioner had been paid bonus for the year 2007-08 in October 2008, he would have become eligible for bonus only in September 2009, but, by then he had retired on superannuation on 31.03.2009. Therefore, according to the Tribunal, no bonus was payable to the petitioner. After hearing the counsel for the parties on this aspect of the matter, we are of the view that the Tribunal has erred. This is so because the bonus is payable each year. The petitioner had been paid the bonus for the year 2007-08, but, he has not been paid the bonus for the year 2008-09 during which he had worked right up to the year-end till 31.03.2009. Thus, bonus is payable for the year 2008-09. It does not matter as to when it is paid. If it is actually paid, after the person has retired, but for the period during which he was in service, then that person would be entitled for the same. Consequently, we are of the view that the bonus payable for the year 2008-09 would also have to be paid to the petitioner.

5. In so far as the other plea with regard to the computation of the Cost of Living Allowance is concerned, we feel that the Tribunal has cursorily decided this issue against the petitioner, without going into the correctness of the computation on the part of the respondents. It is an agreed position that the

Cost of Living Allowance of the petitioner is to be computed on the basis of the letter dated 16.09.1993 issued by the Ministry of External Affairs, New Delhi (Annexure P-5 of the writ petition). This method of computation was, however, superseded by another method of computation which is indicated by another letter dated 06.06.2008 issued by the Ministry of External Affairs, New Delhi (Annexure P-7 of the writ petition). It is, therefore, clear that the computation of Cost of Living Allowance in so far as the petitioner is concerned has to be computed on the basis of the said letter dated 16.09.1993 up to the period ending on 05.06.2008 whereafter the computation is to be based on the letter dated 06.06.2008.

6. Without going into the actual calculation in this writ petition itself, we direct that the respondent shall re-compute the Cost of Living Allowance payable to the petitioner in terms of the said two letters for the said two respective periods. The computation shall be done within eight weeks. The details of the computation shall be conveyed to the petitioner immediately thereafter. If any amount is payable on such re-computation, the said amount shall be paid within two weeks thereafter. The bonus shall also be paid for the year 2008-09 as indicated above within eight weeks.

With these directions, the writ petition stands disposed of.

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