

"No carelessness until there is a cure. Wear Mask, follow physical distancing & maintain hand hygiene."

PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
I.P. Estate (near ITO), Vikas Bhawan, M-Block, New Delhi-110110
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Date of hearing: 30.03.2022

Complainant : Sh. Ajmer Singh - Present.

Respondent : The Director,
Directorate of Education,
Govt. of NCT of Delhi.
Through Sh. B.B. Gupta,
Dy. Director of Education
Zone-28 District Central.

Sh. A.P.S. Bindra, Head Clerk,
Khalsa Girls Senior Secondary School, Chuna
Mandi, Paharganj – Present.

Grievance No. : PGC/2022/A.II/Edn./02

1. Brief facts of the complaint

1.1 Sh. Ajmer Singh, who has retired as Lab Assistant from Khalsa Girls Senior Secondary School, Chuna Mandi, Paharganj, filed a grievance petition before Public Grievances Commission, aggrieved by non-payment of interest on delayed payment of gratuity, leave encashment, provisional pension, ACP/MACP etc. amounting to Rs.9,99,957/- by Khalsa Girls Senior Secondary School, Chuna Mandi, Paharganj. He further submitted that the Managing Committee of the said school and officers of Directorate of Education implicated him in a false and fabricated case and he was compulsorily retired from service w.e.f. 28.04.2014 without mandatory approval of Director of Education, as required under Rule 120 of Delhi School Education Rules, 1973. Further, the Managing Committee of the School illegally withdrawn his 2nd MACP and withheld 3rd MACP without any valid reason.

2. **Relevant facts emerging during the hearing**

2.1 An Action Taken Report dated 21.03.2022 has been filed Dy. Director of Education (Zone-28), Districts Central & New Delhi. As per the report :-

“Sh. Ajmer Singh previously also filed same representation in the PGC vide Appeal No. (678)/021/PGC/DRI/Edu./6533 dated 28.09.2021 and the Hon’ble Commission gave its decision and disposed the said Appeal as under:-

Decision

*The present appeal relates to seeking of copy of file relating to Court case. Inspection of this file was accorded to the appellant on 17.08.2021 and copy of 13 pages, on payment of requisite fees has been made available to him. There is no issue of payments or payment of interest, due to the appellant, in the present appeal case. Copy of available record, as sought by the appellant after inspection has been made available to him. As such, no further information is required to be furnished in the present appeal case. **Present appeal case is ordered to be closed before the Appellant Authority/PGC (copy of order is enclosed).***

*Further, in case of his claims, file/proposal was sent to the Finance Department regarding payment. It was pointed out by the Finance Department that **“proposed additional interest, amounting to Rs.9,99,957/- on various other delayed payments released to Sh. Ajmer Singh, seems to have no mention in the Hon’ble High Court order dated 27.09.2017 and 31.07.2018 and the same is also not supported by any proper justification/rule positions.”***

Accordingly, Sh. Ajmer Singh, retired Lab Assistant was already intimated vide letter No.F.DDE/Z-28/2020-21/1175-1191 dated 22.12.2021 (copy enclosed).

This issue with the approval of the Competent Authority.”

2.2 No action taken report is filed on behalf of Khalsa Girls Senior Secondary School, Chuna Mandi, Paharganj, Delhi.

2.3 The complainant, Shri Ajmer Singh made the following submissions:-

1. He was initially appointed as Class-IV in 1978 in the Khalsa Girls Sr.Sec.School, Chuna Mandi, Paharganj, New Delhi (Aided School).
2. On 08.12.1981, he was promoted as Lab Assistant in the said School.

3. As per the complainant, his service career was neat and clean from 1978 to 2010.
4. The complainant was suspended from service on 22.09.2011 on fake records.
5. He was compulsorily retired on 28.04.2014 without approval (Section 120(2) of Delhi School Education Act & Rules, 1973) of the Competent Authority i.e Director(Education). All his retirement benefits were withheld such as, pension, gratuity, leave encashment, DCRG, GPF, commutation.
6. ACP-II which was given as per DPC w.e.f. 19.06.2002 was illegally withdrawn on 04.04.2011. MACP 3rd w.e.f. 1.9.2008 was illegally withheld, Illegally recovery of huge money amounting to several lakhs was done.
7. From 2014 to 2019, no retirement benefits were released.
8. He approached the Hon'ble High Court of Delhi for release of above retirement benefits.
9. Vide order dated 27.09.2017 in W.P. (C) 7517/2015, the Hon'ble High Court ordered that *"as the petitioner has not been given the benefits arising from the 3rd MACP, the amount of Rs.1,50,000/- recovered shall be adjusted against the benefits to be given under the 3rd MACP. Further, it restrained the respondents from recovering/adjusting an amount of Rs.2,34,876/-. Any differential amount to be paid under 3rd ACP shall be released to the petitioner within two months, with interest @ 9% per annum.*
1. Vide Review order dated 31.7.2018 in W.P(C) 7517/2015. the Hon'ble High Court of Delhi allowed the review petition of the complainant and the order dated September 27,2017 was reviewed and the writ petition was allowed on the following terms:
 1. *That the respondents could not have withdrawn the benefit of 2nd ACP vide order dated April 4, 2011, as upheld vide impugned order dated June 24, 2014. The same are illegal.*
 2. *The petitioner shall be entitled to the refund of Rs.2,34,876/- as directed in the application being CM No.42563/2017 along with 5% school share (if not included in the amount). Further an amount of Rs.1,75,625/- needs to be refunded to the petitioner by the respondent school.*

The Petitioner shall also be entitled to grant of 3rd MACP w.e.f. September 1, 2008 with arrears till the date of his compulsory retirement on April, 28, 2014 with 9% interest per annum.
3. That after the directions of the Hon'ble High Court of Delhi, he received complete GPF, DCRG and 70% of pension, gratuity, part payment of commutation. He also received ACP-2nd, MACP-III in the year 2019. These benefits were given to him very late.

4. The complainant stated that DCA(Finance) of Education Department(HQ) submitted a proposal for grant of Rs.9,99,957/- with regard to payment of interest which was sent to Pr.Secretary(Education) and further to Secretary(Finance), GNCTD for approval.

It is further stated by the complainant that in the light of above narration, it is clear that the department has withheld his retirement dues and service benefits without any authority, provisions of law, approval of competent authority or any order of competent court etc. Surprisingly, the department is now taking a wrong and unsustainable interpretation that court has not passed any order regarding payment of additional interest. In fact, no additional interest is being demanded on any count. The interest is only for the period of payment of delay from 2006 to 2019 and the same can not be termed in any manner as additional interest. The additional interest has never been demanded nor calculated and only interest for the period of delay in payment of retirement benefits and service due has been calculated which were withheld by the department for no fault on the part of the applicant.

It is stated by the complainant that the Law Department of GNCT of Delhi has already clarified on 08.07.2019 that the applicant is entitled for interest on delayed payment of Gratuity, Leave Encashment, Provisional Pension, ACP/MACP etc. but the Education and Finance Department is not releasing his legitimate payment of interest of Rs.9,99,957/-.

The advice of the Law Department, is as under:-

“The issue relates to the grant of interest on delay in payment of arrears of MACP.

In the instant case, considering the facts and circumstances of the case, the Hon’ble High Court has directed interest @ 9% per annum.

*In the case of **Sh.S.K. Dua Vs. State of Haryana (AIR20088SC1077)**, Hon’ble Supreme Court has specifically observed as under:-*

“If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution.”

The appropriate decision may be taken by the Administrative Department in view of the above position.”

The complainant stated that he has received an interest of Rs.2,94,660/- in the year 2019. The complainant further states that the balance interest of Rs.14,55,397/- till July 2019 is still to be paid by the School Authorities.

3. Directions of the PGC

3.1 From the above, it is clearly established that there has been an inordinate delay in releasing the retirement /service benefits to the complainant by the School Authorities/respondent department, for which, the complainant had to approach the Hon'ble High Court of Delhi for getting the same. It is also a fact that with the intervention of the Hon'ble High Court of Delhi, the complainant has received an interest of Rs.2,94,660/- on the delayed payments and the complainant is now praying for the release of the balance amount of interest i.e. 9,99,957/-. It is also noted as per the action taken report filed by Dy. Director of Education, Zone-28, Education Department, GNCT of Delhi, that the matter has already been examined by the Finance Department. Now, the Commission is of the view that at this stage, it cannot intervene in the said matter as the complainant had already approached the Hon'ble High Court of Delhi for agitating his grievances and the same has already been decided by the Hon'ble High Court of Delhi vide its orders dated 27.09.2017 and 31.07.2018. Hence, the complainant is advised to approach the appropriate authority/Court for further directions to the respondent department in the matter.

3.2 The Commission requests the respondent department to take appropriate view, as per rules, with regard to release of balance interest of Rs.9,99,957/- on delayed payments on various counts, in line with the directions/observations of the Hon'ble High Court of Delhi and the Law Department, as prayed by the complainant in his grievance petition dated 20.01.2022 filed before the Public Grievances Commission.

3.3 In view of the above observations, the matter stands closed in the Commission.

(MRS. MADHU SHARAN)
MEMBER

No. PGC/2022/A.II/Edn./02

Dated:

1. The Director, Directorate of Education, Govt. of NCT of Delhi,

Old Secretariat, Delhi-110054.

2. Addl. Director of Education/Nodal Officer, Directorate of Education, Govt. of NCT of Delhi, Old Secretariat, Delhi-110054.
3. Dy. Director(HQ), Directorate of Education, Govt. of NCT of Delhi, Old Secretariat, Delhi-110054
4. Dy. Director of Education, Districts Central & New Delhi, Plot No.5, Ashoka Hill, Jhandewalan, New Delhi – 110005.
5. Sh. B.B. Gupta, Dy. Director of Education (Zone-28), District Central, Plot No.5, Ashoka Hill, Jhandewalan, New Delhi – 110005.
6. HOS, Khalsa Girls Senior Secondary School, Chuna Mandi, Paharganj, New Delhi -110055.
7. Sh. Ajmer Singh

