

76

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1122/2002

New Delhi, this the 3rd day of February, 2003

HON'BLE MR. SHANKER RAJU, MEMBER (J)

O.P. Viksit S/o late Shri Rhem Chand,
R/o C-81, Surajmal Vihar,
Delhi- 110 092

..... Applicant
(Applicant in person)

Versus

1. The Lt. Governor though
Chief Secretary, Govt. of Delhi
5 Shyam Nath Marg,
Delhi - 110 054
 2. The Director cum Secretary,
Dept. of Training & Technical Education,
Govt. of Delhi, Muni Maya Ram Marg,
Pitampura, Delhi-110 088
- Respondents

O R D E R (Oral)

Through this OA the applicant seeks 18% compound interest on delayed payment of selection grade arrears and consequent retiral dues.

2. Applicant being aggrieved by non-fixation of his pay in the selection grade, had approached this Tribunal in OA No. 1656/1995. The Tribunal vide order dated 13.2.1996 quashed the impugned order with a direction to the respondents to accord benefits to the applicant including arrears. Review Application No. 83/1996 filed by the respondents in this OA was rejected on 13.5.1996. Respondents approached the apex Court in SLP No. 22893-22894/96 which upheld the decision of the Tribunal.

3. Applicant filed another OA No.2209/1997 claiming selection grade of Craft Instructor from

11

(2)

16.2.1974 i.e. the date of completion of 14 years service, instead of 9.2.1977. By an order dated 13.8.1998 directions had been issued to the respondents to fix the pay of applicant in the selection grade w.e.f. 16.2.1974 instead of 9.2.1977 with arrears, but his prayer for interest and cost was disallowed. C.P. No.339/1998 filed by respondents in OA No.2209/1997 was dismissed.

4. The High Court of Delhi in CWP 6262 of 1998 by an order dated 3.5.2000 upheld the decision of the Tribunal and directed "disbursement of the amount payable to the applicant within two months. As the amount has not been paid, CCP No.285/2000 has been preferred by the applicant in CWP 6262 of 1998 before the High Court of Delhi. The matter got delayed on account of absence of the respondents. Lastly on 11.1.2002 as the applicant has been paid leave encashment and also in view of the fact that the entire amount has been received by him, the CCP has been disposed of with a cost of Rs..2,500/- which was accordingly paid by the respondents.

5. Applicant in person contended that as the respondents have been directed to make payment of his arrears w.e.f. 16.2.1974 within a stipulated period and after dismissal of CWP, they have accorded the benefit to the applicant w.e.f. from 03.08.2000. The payment has been made to the applicant on 10.4.2002 which entails ^Winterest as the delay in disbursement is not attributable to the applicant.

6. On the other hand, respondents' counsel Ms. Sumedha Sharma strongly rebutted the contention and stated that the request of the applicant for interest has been specifically rejected by this Tribunal in the order dated 13.8.1998. In the High Court, applicant has not assailed that portion of the OA. The aforesaid decision with respect to interest in pursuance of the directions of the High Court on account of delayed payment a cost of Rs.2,500/- has been paid to the applicant. As the applicant has filed this OA to raise the issue of interest, the same is not maintainable and would amount to the doctrine of res judicata.

7. I have carefully considered the rival contentions of the parties and perused the material placed on record.

8. Insofar as the interest on delayed payment is concerned, by an order dated 13.8.1998 interest was disallowed. The aforesaid order has been upheld by the High Court on 3.5.2000 in CWP No.6262 of 1998 and directions have been issued to pay the applicant his dues within two months which expired in July 2000. Thereafter on filing CCP, after meticulously going into the fact that the applicant has been unnecessarily harassed by delaying the payment, the High Court of Delhi directed payment of Rs.2,500/- in favour of the applicant. In my considered view, applicant who has taken the plea of interest which has not been acceded to by the High Court of Delhi and instead of interest on delayed payment, a cost was imposed on the

13

(4)

respondents, he cannot now raise the plea of interest on delayed payment as it would ~~be barred by~~ ^{be barred by} the doctrine of res judicata as having an opportunity to raise the plea of interest which has been denied to the applicant. Having failed to do so, it is not open for him, to raise the same in a separate OA. Moreover, applicant has not raised any such plea before the High Court of Delhi.

9. In view of the foregoing, I do not find any merit in the present OA which is accordingly dismissed. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)

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