

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 228/2002

New Delhi this the 12th day of September, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

J.K.Garg,
Retired Ex.Engineer (Elect),
D-13, Rana Pratap Road, Adarsh
Nagar Extension, Delhi-33

(Present in person)

...Applicant

VERSUS

Union of India through

1. Secretary,
Govt.of India,
M/O Urban Affairs and
Poverty Alleviation,
Nirman Bhawan, New Delhi-11

2. Director General of Works,
Central Public Works Department,
Nirman Bhawan, New Delhi.

(By Advocate Shri Madhav Panikar)

... Respondents

O R D E R (ORAL)

(Hon'ble Shri Govindan S.Tampi, Member (A))

Payment of interest @ 12 % p.a. on the delayed release of DCRG and commutation of pension is what the applicant seeks in this OA.

2. Heard S/Shri J.K.Garg, the applicant and Madhav Panikar, learned counsel for the respondents.

3. The applicant who retired as an Exe.Engineer on 30.11.1997, was chargesheeted on 28.11.97, for alleged offences of July and November 1991. Inquiry Officer's (IO) report dated 8.2.99 held the charge as partially proved. While the second stage advice by the CVC was not communicated to the applicant, UPSC's report was given. In view of UPSC's advice dated 18.10.2000, to the effect that the charge be dropped and the applicant be exonerated, the President

ordered the dropping of the proceedings. Presidential order also referred to the absence of malafides on the part of the C.O/the applicant. Since the charges against the applicant have not been established and as such dropped the withholding of DCRG and commutation value was a penalty which could not be sustained. The applicant had been put to avoidable inconvenience and his pensionary benefits had been wrongly held back. Payment of interest @ 12 % on the due amounts like DCRG and commutation pension value, is his just right pleads the applicant. The amount of interest worked out shown as being payable to him, in terms of applicants' claims is shown as Rs.3,64,794/- . Issuance of earlier directions to grant the above amount is the applicant's prayer.

4. In the reply filed on behalf of the respondents, duly reiterated by their learned counsel Shri Madhav Panikar, *15/8/98* *2* while CVC's advice was not furnished to the applicant and correctly so, the applicant was selectively referring to UPSC's advice which should have been taken in its totality. It would then be clear that the respondents had not fully exonerated him. The applicant Shri Garg was chargesheeted in November, 1997 for the alleged act of financial impropriety leading to the avoidable expenditure of Rs.8,56,018/- . In the inquiry, the I.O.held the charges as partially proved and the Central Vigilance Commission, had in their letter dated 30.8.99 recommended imposition of major penalty. *UpSC*, on the other hand, indicated in their advice that there was no malafide on the part of the applicant that what was shown as partially proved were only procedural and technical in nature and did not constitute grave misconduct. *and indicatively* Withholding of DCRG was itself a penalty and therefore, no penalty was to be imposed. Hence the dropping of the proceedings. The same however did not amount to full exonerations. Only in cases of

full exoneration gratuity is deemed to have fallen due for payment on the date following the date of retirement and interest would be payable as in the instance case, the applicant was not fully exonerated, applicant's plea for the payment of interest on DCRG and pension commutation cannot be sustained. The OA, therefore, merits rejection, pleads Shri Panikkar.

5. I have very carefully deliberated upon the rival contentions. The applicant in this case seeks payment of interest on his DCRG as well as commutation of pensions which were withheld on account of disciplinary proceedings initiated against him, which were subsequently dropped. On the other hand, the respondents aver that no interest was due as the individual was not fully exonerated by the disciplinary authority. I observe that in the inquiry held against the applicant vide chargesheet dated 28.11.1997, the I.O. had held the charge against the applicant as partially proved and the Central Vigilance Commission had indicated imposition of major penalty on him. However, the UPSC had observed as below:-

"In view of the above the Commission observe that as no malafidesness on the part of the CO has been proved and the charges that have been partially proved are of procedural and technical nature which do not constitute grave misconduct and as the gratuity of the CO has been withheld since his retirement which may be deemed to be a kind of punishment, the penalty of cut in pension should not be imposed on the CO.

In the light of the findings as discussed above and after taking into account all other aspects relevant to the case, the Commission consider that the proceedings against Shri J.K.Garg be dropped and he be exonerated from the charges levelled against him. They advise accordingly".

6. Following the above, the President came to the conclusion that ends of justice would be met if the charges against Shri Garg are dropped and ordered accordingly. The respondents in the above circumstances hold that there was no full or complete exoneration for the applicant and therefore according to them the payment of the retiral benefits would be due only after the above order and therefore, no interest was payable. I do not agree. The perusal of the disciplinary authority's order No.c-13011/20/97/A-VIII dated 22.5.2001 makes it clear that after considering all the relevant facts, the President had come to the conclusion that the ends of justice called for the dropping of the proceedings against the applicant and ordered accordingly. There is no mention in the said findings of the President that the order was not an exoneration or that it was conditional, as the respondents would like the Tribunal to believe. After perusing the second stage advice of the CVC holding that imposition of a major penalty was called for and of UPSC that withholding of the DCRG for the interregnum was the penalty and that the charged officer be exonerated, the President has taken the decision to drop the proceedings. This would have to be taken as full and total exoneration and nothing less than that. That being the case, keeping in mind the instructions contained in DOP and AR's OM dated 10.1.1883, DCRG became due for payment on the date following the date of superannuation i.e. from 1.12.1997. The applicant was however, paid DCRG only in 2000 and therefore he is entitled for payment of interest from the date on which the payment became due to the date on which the same was released/disbursed. The same position obtains in the case of commutation of pension. The applicant is therefore, justified in seeking interest on the amount, which were released/disbursed late. Payment of simple interest at

reasonable rate is called for. The applicant's claim for compound interest has no basis and does not merit acceptance. To claim for cost also follows suit.

7. In the above view of the matter, the OA succeeds and is accordingly disposed of. The respondents are directed to pay to the applicant simple interest @ 9% p.a. on the amounts of DCRG and commutation value of pension from the date on which they became due for payment to the dates on which they were released. No costs.

8. Operative portion of this order was pronounced in the Court at the conclusion of the oral submissions.

(Govindan S. Tamai)
Member (A)