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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 226/2002

New Delhi this the 7th day of November, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

In the matter of:

K.D. Tripathi,
S/o Shri Sunder Lal Tripathi,
DANICS OFFICER (Retd),
LU-27, Pitampura,
Delhi-110008.

.... Applicant.

(By Advocate Shri D.R. Gupta)

Versus

1. Union of India,
through the Secretary,
Govt. of India,
Ministry of Home Affairs,
New Delhi.
2. The Chief Secretary,
Govt. of NCT of Delhi.
3. Commissioner of Sales Tax, Delhi
Bikaner Bhawan, New Delhi. Respondents.

(By Advocate Mrs. Avnish Ahlawat with Shri Mohit Madan)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

In this application, the applicant has sought the following main reliefs:

"8.2. To declare the action of the respondents in stopping the payment of monthly pension as admissible to the applicant since May, 2001 as patently illegal and direct the respondents to release the monthly pension as admissible to the applicant with immediate effect.

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8.3. To direct the respondents to pay to the applicant arrears of admissible pension withheld unauthorisedly together with interest at the rate of 18% p.a. thereon till the date of actual in terms of the law laid down by the Supreme Court of India in the case of *Vijay L. Mehrotra V. State of U.P. & Others* cited above and annexed as Annexure-V.

8.4 To declare the applicant as entitled to receive leave encashment on the date of retirement i.e. 30.6.94 and the same was wrongly withheld till it was paid on 12.3.00 as such the applicant is entitled to the payment of interest on delayed payment at 18% p.a. from the date of his retirement on 30.6.94 till the date of actual payment i.e. 12.3.00.

8.5. To declare that the applicant entitled to receive interest at the rate of 18% p.a. from the due date till the date of actual payment on account of gratuity and commutation of pension".

2. The admitted facts are that the applicant was issued a charge-memo dated 29.6.1994 and he retired on superannuation from service on 30.6.1994. On conclusion of the Departmental proceedings initiated by this charge-memo, the applicant was imposed a penalty by order dated 23.1.2001. By this order, the President in exercise of the powers conferred on him under Rule 9 of the CCS (Pension) Rules, 1972 ordered withholding of 10% of the monthly pension otherwise admissible to the applicant for a period of one year which has, therefore, expired on 22.1.2002.

3. Shri D.R. Gupta, learned counsel for the applicant has submitted that even after the aforesaid penalty order was issued on 23.1.2001, according to the reply filed by the respondents themselves, the payment with regard to the arrears of pension as admissible to the applicant from May, 2001 to January, 2002 was made on 12.2.2002, after which date admittedly the applicant is receiving his regular pension.

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4. According to Shri Mohit Madan, learned proxy counsel for the respondents, there has been no delay in payment of either pension, leave encashment or gratuity which have all been done in accordance with the Rules. With regard to the payment of leave encashment, learned proxy counsel has submitted that the competent authority had withheld the payment under the provisions of Rule 39 of the Leave Rules and had later, by letter dated 3.2.2000, authorised payment of that amount. Thereafter, the leave encashment amount due to the applicant was paid in March, 2000 which, therefore, shows that there has been no delay.

5. From the facts mentioned above, it is noted that even before the penalty order was passed by the President dated 23.1.2001, the respondents had taken action in accordance with the Leave Rules to have the leave encashment amount earlier withheld released on 12.3.2000, ^{through} ~~as~~ there has been some delay in releasing this amount. However, having regard to the facts and circumstances of the case, the claim for interest on the delay in payment of leave encashment cannot be allowed at this stage.

6. With regard to the claim of the applicant for payment of monthly pension, it is seen from the reply filed by the respondents that the arrears of pension, as admissible to him from May, 2001 to January, 2002 were paid only on 12.2.2002. I do not find any sufficient explanation by the respondents for the delay in payment of arrears of

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pension merely on the ground that they had to recalculate the amount, which admittedly was admissible to the applicant in May, 2001 and was paid to him after nearly nine months on 12.2.2002. That could have been done much earlier. In the facts and circumstances of the case and considering the fact that the applicant has retired from service w.e.f. 30.6.1994, the respondents are directed to pay simple interest @ 9% per annum on the arrears of pension due to the applicant from May, 2001 till the actual date of payment, that is 12.2.2002, in accordance with the relevant rules and instructions.

7. With regard to the delay in payment of DCRG which, according to the applicant, was paid only on 5.9.2001, taking into account the aforesaid penalty order passed by the respondents dated 23.1.2001 and in the particulars facts and circumstances of the case, the respondents are directed to pay simple interest @ 9% per annum on the DCRG gratuity, from 1.3.2001 till the date of issue of the cheque, that is 31.8.2001.

8. Similarly, after perusal of the relevant facts and circumstances of the case, I also see force in the submissions of Shri D.R. Gupta, learned counsel that even in the payment of commutation of pension to the applicant after conclusion of the disciplinary proceedings by order dated 23.1.2001, there has been delay on the part of the respondents which perhaps could have been avoided by them if

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they would have taken prompt action. Therefore, on the delay in payment of the commutation of pension, the respondents shall also pay simple interest @ 9% from 1.3.2001 to 31.8.2001.

9. The above action to pay the interest amount, as ordered in paragraphs 6,7 and 8 above, shall be taken by the respondents within six weeks from the date of receipt of the a copy of this order. In case, as submitted by the learned counsel for the applicant, full pension after expiry of the Presidential order dated 23.1.2001 has not so far been restored, necessary action shall also be taken as expeditiously as possible and in any case within the aforesaid period.

10. In the circumstances of the case, cost of (Rupees one thousand only) ^{Rs.} Rs.1000.00/is granted in favour of the applicant and against the respondents.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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