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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1927/2002

New Delhi, this the 14th day of May, 2004

Hon'ble Shri S.K.Naik, Member (A)

Shri R.K.Mittal,
c/o Asstt. Commissioner of Central Excise
Rohtak Division, Haryana. .. Applicant

(Shri Gopal Dutt, Advocate)

VERSUS

Union of India, through

1. Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delh
2. Director General
All India Radio
Akashvani Bhawan, Parliament Street
New Delhi.
3. Pay and Accounts Officer
Individual Roving Ledger Account
M/O Information & Broadcasting
AGCR Building,
I.P.Estate, New Delhi. .. Respondents

(Shri K.R.Sachdeva, Advocate)

ORDER

Applicant is aggrieved by non-receipt of some of his pensionary benefits like DCRG and LTC claim and interest on delayed payment. He retired from service 31.10.2001 on superannuation while working as Director (Engineering) with the respondent-department. While in service he was sanctioned HBA of Rs.3 lakhs to be recovered in 34 monthly instalments till superannuation and the balance of Rs.96000 alongwith interest of Rs.59,063 was to be recovered from his DCRG. DG,AIR on 11.1.2002 and 13.2.2002 wrote to PAO, AGCR to issue 'No Due Certificate' in applicant's favour. According to the applicant, in the letter dated 11.1.2002 it was wrongly mentioned that "Shri R.K.Mittal, has stated that the entire HBA along with interest has been recovered from

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him on retirement on 31.10.2001". Pension Payment Order (PPO) was issued in January, 2002 resulting in drawl of his pension only from February, 2002. Not only this, he received payments for leave encashment, Group Insurance and commuted pension very late, while DCRG and LTC claim are yet to be received. He made representations but without success. Hence this application seeking a direction to the respondents to release to him DCRG amounting to Rs.2,00,317 and LTC claim alongwith interest for delayed payment.

2. Respondents have contested the application and have stated in their reply that while finalising applicant's pension case, it was noticed that his service book for non-gazetted period was received by PAO only on 4.12.2001. Thereafter PPO was issued on 20.12.2001 authorising basic pension of Rs.8950/- per month. Commuted value of pension of Rs.4,21,438/- was paid to him vide cheque dated 19.12.2001. NOC has also been issued to him on 18.6.2002 and the delay was due to recovery of HBA and interest thereon which was to be effected from DCRG. Similarly, gratuity amounting to Rs.1,69,287 after effecting recovery of balance of HBA and interest thereon amounting to Rs.1,80,713, GPF balance of Rs.1,31,740, LTC claim of Rs.5380 and leave encashment of Rs.2,64,930 have also been given to him. In addition, an amount of Rs.6567/- has also been paid to him on account of delayed payment of DCRG. Thus, nothing survives in the present OA and the same be dismissed, the respondents contend.

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3. Respondents further state in their additional affidavit that no interest is admissible on delayed payment of leave encashment and LTC claim as per Govt. of India decision No. 2 of Rule 68 of CCS (Pension) Rules, 1972 as the delay involved is not more than 3 months.

4. While it is not denied by applicant's counsel that all the dues stated to have been paid by the respondents have been received by him, he insists that the interest on HBA should have been calculated @ 11% which comes to Rs.63,525 and not Rs.80,258 as calculated by the respondents. He further contends that the respondents did not complete the process for registration of mortgage deed of the property obtained from Delhi Development Authority(DDA) and the applicant cannot be penalised by charging interest @ 13.5% on HBA.

5. Respondents' counsel has strongly rebutted this claim by contending that as per the conditions prescribed while sanctioning HBA, applicant was to mortgage the house in favour of the President of India entailing a rebate of 2.5% on the rate of interest. But he submitted only the mortgage form and not the mortgage deed. The condition of mortgaging the property is taken as fulfilled only when the HBA beneficiary gets the mortgage form registered in the office of the concerned Sub-Registrar and submits the same to the Respondents. Despite several letters having been written to him to get the flat mortgaged to the President of India, which was his entire

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responsibility, the applicant had replied that he was not in a position to do so. Therefore the interest on HBA as per the terms of the sanction order was rightly calculated. The applicant cannot shift his responsibility of executing the mortgage deed on the respondents on the ground that the DDA delayed the execution. The Counsel, however, submits that an amount of Rs.4,455/- amounting to excess interest has already been refunded to the applicant.

6. The counsel for respondents also contended that since the balance amount of HBA of Rs.96000 remained outstanding against the applicant from 1.11.2001 to 28.6.2002, interest of Rs.8640/- is still to be recovered from him.

7. I have heard the learned counsel for the parties and perused records.

8. Having conceded that the payment stated to have been made by the respondents has been received by the applicant, what remains to be adjudicated upon is as to whether there has indeed been unreasonable delay warranting payment of interest thereon and further whether the respondents were justified in charging interest at the rate of 13.5% on the balance of HBA.

9. On the point of delay with regard to the various retirement benefits, it may be stated that the respondents have admitted a delay of four months and 27

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days beyond the period of three months for making the payment of DCRG. However, they have paid interest at the rate of 9.5 % on the payment of Rs.1,69,287/- that was due to be paid to the applicant. The amount of interest thus calculated as per sub-Rule (2) to Rule 68 and the Govt.of India decision thereon came to Rs, 6567/-, which the respondents have paid to the applicant. In so far as the payment of interest on Leave encashment and LTC is concerned, the respondents have defended the non-payment on the ground that the same is not admissible as per Govt.of India decision No. 2 of Rule 68 of CCS (Pension) Rules, 1972. The respondents have also stated that the delay was not more than three months after allowing the normal period of three months and on this account also the applicant is not entitled to any interest. On the contrary, the respondents have contended that the applicant has enjoyed the benefit of a sum of Rs.96,000 which remained outstanding against him from 1.11.2001 until 28.6.2002 and therefore, they are entitled to interest amounting to Rs.8640/-. I, however, find that the respondents have neither produced any Rule nor it does form part of the order sanctioning the advance to the applicant. When the respondents want to take advantage on the plea that there is no Rule for payment of interest on delayed payment of leave encashment and LTC, the same should be applicable to them as well for the retention of the outstanding amount by the applicant until it was recovered/deducted from his DCRG. Overall, therefore, I find that the delay caused by the respondents for the payment of DCRG and other retiral

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benefits has also benefited the applicant himself inasmuch as ^{an} outstanding amount of Rs.96,000/- has also been delayed for recovery which otherwise would have been deducted from his DCRG/leave encashment much earlier. I, therefore, hold that neither the applicant is entitled to any benefit of interest for the delayed payment nor should the respondents claim any interest for the delayed recovery of outstanding HBA from the applicant.

10. In so far as charging of interest at the rate of 13.5% on the HBA sanctioned to the applicant is concerned, counsel for the applicant has tried to make out a case as if the respondents have not taken into account a sum of Rs.6000/- which was recovered from his salary for the month of January, 1999. It has been explained by the respondents that the deduction from the month of January, 1999 was taken as deduction of the principal amount from February, 1999 onwards and there is no discrepancies with regard to the total number of instalments that has been recovered. The contention raised by the learned counsel for the applicant, therefore, has to be rejected. On the point of charging higher rate of interest, I find that the same has been done by the respondents as per the terms of the order sanctioning the HBA. Counsel for the respondents has contended that it was incumbent upon the applicant to get the mortgage deed executed with the DDA and the same got registered from the Sub-Registrar, failing which the respondents had to charge interest on the higher rate which has been correctly done. I find that the applicant

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has tried to apportion blame on the respondents-department and the DDA for the delay with regard to the execution and registration of the mortgage deed. I am afraid the onus with ^{regard to} the delay cannot be shifted on the respondents as the applicant himself is responsible for the failure. He should have been vigilant and prompt with regard to the matter, as otherwise he was to be charged interest on the higher rate which was very well known to him at the time of receipt of the sanction order. The pleadings on this account also therefore, fail.

11. In the result, in view of the discussion above, the OA is dismissed without any order as to costs.

S.K. Naik
(S.K. Naik)
Member(A)

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