

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

1st March 2001
O. A. NO. 1498/2001

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

P.P. Garg S/o Late Sh. Govardhan Dass,
R/o SB-82, Shastri Nagar,
Gaziabad (UP)

.....Applicant

(By Sh. P P Garg Advocate along with Sh. P P Garg,
Applicant)

VERSUS

1. The Union of India through
The DG & Secretary,
Deptt. of Science and Technology,
Council of Scientific and Industrial Research,
Govt of India, Min. of HRD,
Anusandhan Bhawan, Rafi Marg, New Delhi
2. The Director,
Structural Engineering Research Centres,
Central Govt. Enclave,
Sector 19, Kamla Nehru Nagar,
Gaziabad (UP)

.....Respondents

(By Sh. Kapil Sharma, Advocate)

O R D E R

Applicant in this OA has come up challenging the validity of the orders no. 97(360)/87-Estt dated 23.5.2001 and 31.5.2001 passed by the respondents directing him to repay the amount of Rs. 23,143/- which had been allegedly paid to him in excess.

2. During the oral submissions Sh. U. Srivastava was present along with Sh. P.P. Garg the applicant, while Sh. Kapil Sharma represented the respondents. Pleading made in the OA, counter affidavit, oral and written submissions have been considered by me.

3. To state in brief the facts, the applicant retired as a Project Officer in Central Engineering Research Centre (CERC) on 31.3.99. Pay and allowances of the applicant for March 99 amounting to Rs. 27,506/- as well as his retiral benefits including gratuity commuted pension, leave encashment were not released on time, while releasing the commuted value of the portion of the pension recoveries/adjustments were made for shortages/damage, the amount of Rs. 6,67,213/- granted by the cheque was not correctly worked out with some unreconciled difference. An amount of Rs. 2,75,080/- still remained unpaid. Further Rs. 2,41,232/- relating to damage of the cable were shown as under investigation, though nothing has been heard on it thereafter. Applicant's repeated representations have not borne any result. Besides, no responsibility could be fixed on the applicant for the alleged shortage of furniture. Similarly mistakes were present in the calculation of the Vth Pay Commission arrears. Besides, he was entitled for grant of interest on account of delayed payment of part of pension, release of GPF amount etc. On the applicant's filing OA No. 741/2001 Tribunal directed on 30.3.2001 the payment of retiral benefits within a month from that day. Following the above part payment was released on 11.5.2001. Applicant's representation dated 15.5.2001 for release of the remaining portion was respondents letter dated 23.5.2001, indicating that there has been some mistakes in calculation and that he should repay an amount of Rs. 23,143/-, which had been paid in excess, followed by the next letter dated 31.5.2001, reiterating the above and threatening the adjustment thereof from the dearness relief. Hence this OA.

4. Grounds raised in this OA are that :

- i) inordinate delay has been caused in the disbursement of retirement benefits,
- ii) Tribunal order in OA 741/2001 had not been properly implemented;
- iii) applicant's representation dated 15.5.2001 had not been considered properly;
- iv) the move to recover the amount paid allegedly in excess was improper.

All the above points were repeated by Sh. U. Srivastava, learned counsel for the applicant.

5. In the reply filed on behalf of the respondents it is pointed out that the delay in the disbursement of the dues was only on account of the delay by the applicant in handing over the charge and also because of the vigilance inquiry. He had been paid not only all his dues, but also an amount of Rs. 23,143/- in excess which the respondents were correctly trying to recover through the impugned orders. Recoveries had been made towards purchase of books (Rs. 3,000/-) towards interest on unspent LTC amount not returned for nearly seven years (Rs. 4,400/-) and the unspent portion of LTC amount (Rs. 1,275/-). In the above circumstances dues have been paid after deducting the above amounts and correctly too. The entire dues have been paid up with interest @ 12% vide respondents' letter no. 98(360)/2000 Estt dt. 11.5.2001 and nothing else remained to be done. The amount so paid stood at Rs. 10,77,450/- which included the excess of Rs. 23,143/-. As the entire dues have

been paid up, OA has itself become infructuous. As he was responsible for the storage of furniture, noticed while he was handing over charge, an amount of Rs. 19,916/- also had to be recovered. The amount sought by him as withdrawal of GPF has been sanctioned and released well within ^{time} and therefore the question of any payment of interest did not arise, according to the applicant. Further as the order of the Tribunal in OA No. 741/2001 had been fully given effect to the applicant cannot have any reason for further grievance. OA therefore, deserved to be dismissed prays Sh. Kapil Sharma, Learned counsel for the respondents.

6. During the oral submission the applicant's main contention appeared to be against the direction for refunding the amount of Rs. 23,143/- and the recovery of amount on the furniture found short, but some confusion persisted in the pleadings Respondents also were not able to fully explain the position and therefore some more time was granted to the parties to reconcile the differences in their own stands. Thereafter further written submission were filed. According to the respondents, an amount of Rs. 2,21,316/- had been withheld earlier and when interest thereon was calculated, in addition to the said amount, break-up thereon was also considered, which led to payment of excess interest. This arose as they were effecting the payments in a hurry to avoid contempt action and it was a sheer inadvertent mistake. Letters dated 23.5.2001 and 30.5.2001, were issued to rectify this position. It was further indicated that in respect of dearness relief, the applicant was claiming interest on interest, which was impermissible in law and that as he had been paid full pension upto the date of payment of commuted amount, only after which this portion was reduced. No interest was payable thereon. Besides applicant's plea against LTC

amount held back by him for long also did not merit any acceptance, as the same cannot be waived. Respondents also attached a revised calculation sheet explaining their position. 7. In the rebuttal, the applicant states that he is entitled to the following.

- i) interest charge on Rs. 1,354/-
- ii) released of Rs. 19,916/-
- iii) interest on commuted value of pension i.e. on Rs. 3,82,816/- from 1.4.99 to 2.2.2000
- iv) cost of books purchase interest charged.
- v) interest charged in two LTC advances
- vi) interest not paid on GPF
- vii) yearly compound interest on the above claims and payments. He also claims that date of commutation be changed to 1.4.1999/may be paid ^{amount} the ^{loss} anticipated to the tune of Rs. 70 to 80,000/- along with other reliefs found proper. He has also attached another note justifying his demands, also admitting that the interest on Rs. 569336/- as well as commuted value of pension had been worked out correctly.

8. I have carefully considered the matter. This is the second round of litigation which the applicant has embarked upon. Finding that his retiral benefits are not being released in full and that full dues are not being disbursed, the applicant had filed OA No. 741/2001 which was disposed of by the Tribunal's Order dated 30.3.2001 with the following observations

"4. In the aforesaid circumstances, I find that it would be in the interest of justice to dispose of this OA with a direction to the respondents to pay the remaining retiral benefits to the applicant within a maximum period of one month

-6-

from the date of service of this order. I direct accordingly. In the event of respondents' order, if any, being adverse to the applicant, the respondents will spell out reasons alongwith Rules and regulations in support of their order. The applicant will have the liberty to approach the Tribunal again if so advised and in accordance with law, in the event of respondents order being adverse to him. Respondents are further directed to make payment of interest at the rate of 12% in respect of all the payments delayed beyond the period prescribed. They are also directed to consider granting to the applicant all the other reliefs claimed by him in the present OA in accordance with the relevant Rules and orders and having regard to the decision of the Hon'ble Supreme Court in the case of State of Kerala and others N. Padmanabhan Nair decided on 17.12.1984 and reported as 1985(1) SCC 429, which was placed before me by the learned counsel"

9. The above order directs the respondent to grant the retiral benefits to the applicant within a month in accordance with law, following which the respondents have ^{effectively} on 11.5.2001 part payment by a cheque. Not satisfied with the above the applicant filed a representation on 15.5.2001, raising certain objections and claiming that he should be paid an amount of Rs. 63,381/- with 12% interest in full settlement of his dues. Instead, the respondents by their impugned letters dated 23.5.2001 and 30.5.2001 have demanded the return of the amount of Rs. 23,143/- which, according to them, has been paid to the applicant in excess. These orders form the basis of the present OA.

10. For deciding this matter, I am confining myself to the written submissions filed by both the parties which summarise the basic position. The tabulated statement furnished by the respondents is relevant in this connection. The same is reproduced below:-

---7/

(15)

+ Revised

Dated

17-01-2002

04/1498/2001

Payments made to Sh. P. P. Garg, Ex. P.O. SBRL, GZB

Sol. No	Particulars	Pre-revised amount due	Revised amount due
1)	D.C.R. 61	3,28,119 = 00	3,50,000 = 00
2)	Leave encashment	1,98,860 = 00	2,10,140 = 00
3)	Commutation of pension	3,82,826 = 00	3,82,826 = 00
4)	Last pay + D.A.	—	30,466 = 00
	<u>Total Due</u>	<u>9,09,805 = 00</u>	<u>9,73,432 = 00</u>
	Less: Paid on 3-2-2K. (-)	6,67,219 = 00	(-) 6,67,219 = 00
	Balance due for payment	2,42,586 = 00	3,06,213 = 00
	Less: Cost of furniture (-)	19,916 = 00	(-) 19,916 = 00
	Intt on conv. Adv. (-)	1354 = 00	(-) 1354 = 00
(A)	Net payable (Pr.)	<u>2,21,316 = 00</u>	<u>2,84,943 = 00</u>
	On 11-5-2001		1,00,791 = 00
(B)	Intt. on Pr. (Intt.)	—	<u>3,85,734 = 00</u>
	Total (Pr. + Intt.) Due		<u>4,08,877 = 00</u>
	11-5-2001 Paid		<u>23,143 = 00</u>

Interests :- 12% Dated 17-01-2002

1) 1-4-99 to 2-2-2K on Rs. 5,69,336 -
 9,73,432
 (-) 3,82,826 - Commutation
 (-) 19,916 Cost of furniture
 (-) 1354 Intt on Conv.
5,69,336 = 00

Rs. 56,934 = 00
 + 393 = 00

① 57,327 = 00

2) 3-2-2K to 10-5-2001 on Rs. 2,84,943

3-2-2K to 29-2-2K Rs. 2,653 = 00

1-3-2K to 30-4-2001 Rs. 39,892 = 00

1-5-2001 to 10-05-01 Rs. 919 = 00

② 43,464 = 00

(B) Total Interest ① + ②

= 57,327 + 43,464

= 1,00,791 = 00

CA 1498/2001

In terms of the above an amount of Rs. 23,143/- has been paid in excess to the applicant.

1 f. While the basic calculation are not in dispute the applicant contests certain entries in the table. According to him the deduction of Rs. 1,354/- being the interest on the conveyance advance and of Rs. 19,916/- being the amount as alleged shortages of furniture should not have been made, as according to him the respondents had not disputed his protest. This is wrong. The applicant has not proved that the interest on the conveyance advance has been repaid or that he had satisfactorily explained the shortage of furniture which was under his charge. Therefore he is responsible for making good the loss and the deduction/recovery has been correctly made by the respondents. With regard to the cost of books purchased also there is only his averment but no supporting evidence. The same, as the respondents have correctly stated he would get on his production of the voucher/bill. Deductions towards two LTC advances have been correctly made. When he had drawn the advance towards LTC, but held on to it for a long time, without utilising it for the purpose for which it was granted he has perforce to pay interest therein. This cannot be waived on any reconsideration. An employee quite conscious of his rights should also be aware of his duties and for the failure to perform the duties results, would have to be visited upon him. Applicant's claims on this count also has no basis. As the GPF amount lying in his account had also been paid within a month from the date of his application and within two months of his retirement no interest is payable thereon. The applicant's claim for compound interest on all the payments also has no basis, as in all the delayed payments respondents

have already effected payment of interest. He would however be entitled for interest on the value of commuted pension from the date of his retirement 1.4.99 to 2.2.2000, As it is ^{due to his} his due and its release had been delayed. This is the only relief he succeeded in gaining.

12. In the result the application succeeds but marginally and is accordingly disposed of. Respondent are directed to pay him interest @ 10% on the commuted value of pension i.e. Rs. 3,82,816/- from 1.4.99 to 2.2.2000 and re-calculate the due and drawn amounts and take action accordingly. The impugned orders dated 23.5.2001 and 31.5.2001 are modified only to this extent. Applicant's other claims are rejected as being devoid of any merit. No costs.

(Govindan S. Tampi)
Member (A)

Patwal/