

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2786 of 2001

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New Delhi, this the *gfk* day of May, 2003

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Dr. H.C. Singhal
C-115 Greater Kailash-1,
New Delhi-110 048.

...Applicant

(By Advocate: In person)

Versus

Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi-110 001.

...Respondents

(By Advocate: None)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant has filed this OA under Section 19 of the AT Act claiming interest on delayed payment.

2. Facts in brief are that the applicant, an ex-Army Officer, has filed the third OA for the same relief. The applicant claims that he was entitled to Rs.94559/- by way of interest on delayed payment of arrears on account of his promotion to the rank of Lt. Col. by virtue of the order passed by the Hon'ble Supreme Court dated 17.12.1991 also reported in AIR 1972 SC 628.

3. It is further stated that the Controller of Defence Accounts intimated the respondents, i.e., Ministry of Defence that the applicant is entitled to a

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sum of Rs.94559/- by way of interest on delayed payment of arrears w.e.f. 1.1.1996 till date of arrears payment as per Annexure A-1. However, the respondents did not issue the sanction letter so the applicant filed an OA 727/97 which was decided by a Co-ordinate Bench on 5.9.97. It was an ex-parte decision and the respondents were directed to calculate the interest in the light of the CDA's letter dated 27.1.1996 and to pay the same to the applicant within a period of 3 months from the date of receipt of this order.

4. It appears that the order was not complied with so the applicant filed a CP which was decided on 26.10.1999. However, since applicant has filed another OA so the court while disposing of the CP observed in the CP that we cannot go into the question as to what the correct amount of interest or other details as to the period has to be paid and since the applicant has filed another OA so let the Tribunal decide the same in the said OA. The other OA was listed as OA 1912/99 and in that OA also the court directed that the respondents shall pay the applicant's interest at the rate of 18% on the entire amount of Rs.94,559/- for the period from 1.4.90 till the date of payment, i.e., 27.3.199. It appears that the said order has not also been complied with so applicant has filed the present OA.

5. No one appeared for the respondents despite the fact that notice was issued and earlier Shri Arif, Government counsel was requested by the court to appear and contest the OA but Shri Arif later on withdrew, probably no instructions were issued to him. At the



outset I may mention that the second OA seeking same relief is not maintainable. Though the applicant who appeared in person submitted that as per the provisions of Section 27 of the AI Act he is entitled for claiming execution of the order but the perusal of the pleadings, as submitted by the applicant, show that the application has been filed under Section 19 of the AI Act and it is not an execution application so in this score the third OA for the same relief is not maintainable because a finality to the order had already been attained in OA 1912/99 which was disposed of by the Tribunal. so fresh OA on the same subject seeking same relief does not lie. The applicant if at all has any remedy for non-execution of any order, then he can file a MA for the same but not an OA.

6. Even in my view since this is a third OA in which the relief prayed for had already been granted in an earlier OA, so the OA is not maintainable at all because the same question cannot be decided by this Tribunal again and again.

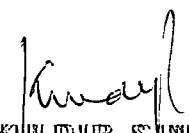
7. Besides that I may mention that applicant have claimed interest on the dues to which he was entitled as an Army Officer since there was dispute with regard to his promotion from the rank of Major to Lt. Col. which was finally decided by Hon'ble Supreme Court. The release of payment of Rs.94559/- was also made by Controller of Defence Accounts. Relief in the OA is also claimed against Defence authorities. But the grievances



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of the service personnels cannot be heard by CAT. The appropriate forum in Hon'ble High Court so on that score also OA is not maintainable.

8. Hence. OA has to be dismissed. Accordingly. the same is dismissed No costs


(KULDIP SINGH)
MEMBER (JUDL.)

/Rakesh