

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 3010/2001

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This the 4th day of September, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Kewal Kumar Luthra
Ex.CO, MTNL
R-Block, 70-D,
Dilshad Garden,
Dlehi-110 095.

...Applicant

(By Advocate: Sh. S.N.Anand)

Versus

1. Union of India through Secretary
Department of Telecom,
Ministry of Communications,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi-110 001.
2. The Chief General Manager,
Northern Telecom Region,
Department of Telecom,
Kidwai Bhavan,
Janpath,
New Delhi.
3. Chief General Manager,
Mahanagar Telephone Nigam Limited,
Khurshid Lal Bhawan,
Janpath,
New Delhi.

.. Respondents

(By Advocate: Sh. V.K.Rao)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA seeking following reliefs:

a) Allow interest at the rate of 24% p.a. on account of delayed release of arrears of pension revised pursuant to implementation of Fifth Pay Commission's recommendations w.e.f. 1.1.96 to 27.1.2000.

b) Allow interest at the rate of 24% p.a. on account of delayed release of CGEIS contributions, which though became

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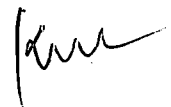
due immediately upon superannuation w.e.f. 1.6.94 till June, 1997.

c) Award cost of the application and-

d) Pass such further or otehr order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The preliminary objection as taken by the respondents is that earlier also applicant had approached this Tribunal seeking the relief of retiral benefits. The OA was listed as No.441/2000 which was decided on 25.1.2001 wherein after the discussion particularly with regard to the delayed payment of DCRG and other pensionary benefits the OA was allowed. Respondents were directed to calculate the interest and pay it to the applicant at the rate of 12% from the date when the amounts had become due to the applicant.

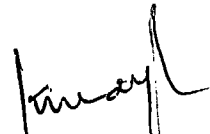
3. In this case applicant claims that for the reason of 5th Pay Commission coming into force, pay has been revised w.e.f. 1.1.96, as per notification dated 30.9.97 vide which 5th Pay Commission had been made operative. While the recommendations of the 5th Pay Commission had been accepted but the payment with regard to the arrears of pay were released to the applicant on 27.1.2000. Thus there was delay from September, 1997 till 27.1.2000 with regard to release of arrears. So the applicant is claiming interest on this amount. But since the applicant had already claimed interest, on the retiral benefits in the earlier OA-441/2000 but had not specifically pleaded for the interest on the delayed payment of arrears of



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pay revision to which the applicant had become entitled after coming into force of the recommendations of the 5th Pay Commission. Since the OA was filed subsequent to the release of arrears, the applicant could have claimed interest in that OA itself. Since the claim was not preferred so the present OA is barred by principles of constructive res judicata and is not maintainable.

4. Sh. Anand appearing for the applicant has argued that in the earlier OA he has prayed for interest on all the retiral benefits but the interest on delayed release of arrears of pension deemed to have been included in that OA but it was not granted to the applicant. If this plea of the applicant was accepted then in that event if the relief was not allowed then the applicant had remedy to approach the superior court. Applicant had remedy to file a review petition but no remedy is pursued by the applicant. In any case the present OA is barred by principles of constructive res judicata. OA is not maintainable and is dismissed. No costs.


(KULDIP SINGH)
Member (J)

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