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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA NO. 3336/2001

This the 4th day of September, 2002

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

RS Dohare (St. No.258)
Retired Chief General Manager (Telecom.)
Department of Telecom,
R/o C-1/0 DDA Flats, Munirka
New Delhi-110067.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-110001.
2. Assistant Director General (Pension)
Department of Telecom,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.
3. Assistant Director General (STG.III)
Department of Telecom,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.
4. Accounts Officer (C&B)
Office of Chief General Manager Telecom
Punjab Circle
Chandigarh-160022.
(By Advocate: Sh. B.S.Jain)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant had filed this OA wherein he has sought the relief with regard to the retiral benefits including release of payment on account of 236 days earned leave and 117 days half pay leave encashment. Applicant has also claimed interest @18% p.a. on delayed payment.

2. Respondents have filed the reply. In the reply respondents submitted that the applicant was facing vigilance case when he retired from Govt. service on 31.10.95. Due to this, he was given provisional pension vide order dated 31.10.95. When the vigilance case was over, he was given

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superannuation pension, commutation of pension, death-cum-retirement gratuity etc. The payment of leave encashment and CGEGIS was pending and that could not be paid to him. Respondents further stated that applicant was well aware that payment was to be made to him by Resp. No.4 and he has not made any representation to Resp. No.4 for expediting this payment. Hence, it is stated that applicant could not be paid the insurance amount and leave encashment as a vigilance case was pending and the same will be paid after the case is over.

3. However, Sh. Jain appearing for the respondents submitted that letter which is dated 17.7.2002 and payment of insurance has been released on 31.3.2002 and leave encashment has also been released on 17.7.2002 and payment on these two points have been released by cheques. Sh. Anand appearing for the applicant states that since there is delay in releasing the amount he is entitled for interest.

4. However, counsel for respondents submits that as per Rule 39 (3) of CCS (Leave Rules) applicant is not entitled to interest on the leave encashment. But from the perusal of Rule 39 (3) of CCS (Leave Rules) which has been quoted in counter affidavit itself I find that counsel for respondents has invoked the rule in an improper and vague manner because it empowers the authority competent to hold or withdraw in the case of Govt. servant who retires from Govt. service while under suspension or while disciplinary or criminal case is pending against him in case some money is to be recovered from him. But admittedly in this case the vigilance enquiry was over and the pension, gratuity etc. was released to the

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applicant, so thereafter the department had no right to withhold the payment of leave encashment and insurance amount. So from the said date the other retiral dues were to be released to the applicant after the vigilance case was over. Since there is a delay as per the letter dated 17.7.2002 itself for the release of payment, so I am of the considered opinion that applicant is entitled for interest to the extent that applicant shall be paid 12% interest on the amount for the period from the date when the earlier gratuity was released and the date of payment of insurance and leave encashment. OA is accordingly allowed.



(KULDIP SINGH)
Member (J)

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