

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1186/99

199

T.A. No.

11

DATE OF DECISION 11.4.2000

G.R. Nigam

....Petitioner

Shri D.R. Gupta

....Advocate for the
Petitioner(s)

VERSUS

The Chief Secretary, Govt.
of NCT & Ors.

....Respondent

Shri R.K. Singh proxy for
Shri A.K. Chopra.

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The Hon'ble

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other
Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

(12)

O.A. 1186/99

New Delhi this the 11th day of April, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

G. R. Nigam,
S/o late Shri A. R. Nigam,
R/o A-149, Ashok Vihar,
Phase-I, Delhi-110 052. Applicant.

By Advocate Shri D.R. Gupta.

Versus

1. The Chief Secretary,
Govt. of NTC of Delhi,
5, Sham Nath Marg,
Delhi.
2. Secretary,
Education,
Govt. of NCT of Delhi,
Old Secretariat, Delhi.
3. The Director of Education,
Old Secretariat,
Govt. of NCT of Delhi,
Delhi. Respondents.

By Advocate Shri R.K. Singh proxy for Shri A.K. Chopra.

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has claimed interest @ 18% per annum on the delayed payments of retiral benefits from the date the various amounts became due to him on his retirement from service w.e.f. 30.6.1996.

2. The applicant, while in service with the respondents, was charge-sheeted by the respondents for certain alleged irregularities in the purchase of books and stationary to the value of Rs. 12180/-. The respondents withheld the retiral benefits of the applicant, which, according to Shri D.R. Gupta, learned counsel, amounted to

18

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Rs. 4 lacs. The applicant filed O.A. 1474/97 which was disposed of by the Tribunal by order dated 3.11.1997. In this order, the Tribunal had directed as follows:

"Accordingly, Respondents are directed to complete the disciplinary proceedings within four months from the date of receipt of a copy of this order. In case they fail to complete the proceedings within the specified time, they will release the retiral benefits of the applicant within one month thereafter. Needless to say, the applicant will give full cooperation in the completion of the disciplinary proceedings".

4. The respondents in their reply, have submitted that in pursuance of the aforesaid order passed by the Tribunal on 3.11.1997, they had proceeded with the disciplinary proceedings. However, after receipt of the UPSC advice by their letter dated 26.3.1999, the competent authority had taken the decision to drop the charges and exonerate the applicant. According to them, they have conducted the disciplinary proceedings as expeditiously as possible and the delay, if any, was neither deliberate nor intentional. Thereafter, they have submitted that the retiral benefits due to the applicant have been paid.

5. The applicant has given the details of payment of the retiral benefits in Paragraph 4.10 of the O.A. along with the dates when they were actually paid. To this, the respondents have merely stated in their reply that the averments are a matter of record and need no reply. Therefore, in the circumstances, the dates of payments against each of the items have to be taken into account as correct.

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6. The learned counsel for the respondents has submitted that after the Tribunal's order in O.A. 1474/97 was passed, the applicant had filed CP 156/98. By Tribunal's order dated 18.1.1999 in CP 156/98, the Tribunal had granted the respondents a further period of one month from that date, that is, upto 18.2.1999 to make the payments to the applicant of post-retiral benefits admissible to him. He has, therefore, submitted that the DCRG amount and commuted value of pension due to the applicant was duly paid on 17.2.1999 and 16.2.1999 respectively, that is, before the date as ordered by the Tribunal. In the circumstances, learned proxy counsel for the respondents has submitted that there is no merit in the O.A. in respect of claiming interest for any delayed payment, taking into account the facts and circumstances of the case.

7. The averments of the respondents have been stoutly controverted by Shri D.R. Gupta, learned counsel. He has relied on the provisions of the Government of India Decisions (1) and (2) below Rule 68 of the CCS (Pension) Rules, 1972. The relevant portion of the Decision reads as follows:

"In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceeding against them and against whom proceedings are consequently dropped".

28

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8. The respondents ~~do~~ not deny that the aforesaid Decisions of the Government of India are not fully applicable to their Department. In the circumstances, the submission made by the learned proxy counsel for the respondents that no interest is payable to the applicant on the delayed payment of the aforesaid amounts of DCRG and GPF cannot be accepted. In the facts and circumstances of the case, the respondents are directed to pay interest on the delayed amounts of DCRG and GPF in accordance with the aforesaid provisions of Rule 68 of the CCS (Pension) Rules, 1972. Necessary action shall be taken in this regard within two months from the date of receipt of a copy of this order to see that the amounts due to the applicant are paid immediately thereafter.

9. Shri D.R. Gupta, learned counsel has also submitted that the applicant is also entitled for other ^{interest in P} _{other} retiral benefits, like arrears of pension, CGEIS, Leave Encashment and Commuted value of pension. He has contended that these are also part of the retiral benefits and as the disciplinary proceedings pending against him have ended in total exoneration of the applicant, there is no reason why these amounts should not be paid with interest. He relies on the judgements of the Tribunal in Ram Charan Lal Vs. The Director of Printing and Another (OA 2379/98) (PB), decided on 10.5.1999 and S.C. Srivastava Vs. Union of India & Ors. (AISLJ 1999(1) CAT (All) 388). In Ram Charan Lal's case (supra), the Tribunal, following the judgement of the Hon'ble Supreme Court in O.P. Gupta Vs. Union Bank of India & Ors. (1987(S)SLR (SC) 288), had directed the respondents to pay interest @ 12% per annum for the delay in making payment of all the items of pensionary benefits, including leave encashment, CGEIS, Commuted value of pension. In S.C.

16

Srivastava's case (supra), the Tribunal has referred to the judgement of the Apex Court in R.R. Bhanot Vs. Union of India (1994(2) SCC 406) in which the Court had allowed interest on the arrears of pension. In that case, the Tribunal had also directed the respondents to add 12% interest on the terminal benefits paid to the applicant in the final directions.

10. In the present case, it is seen from the applicant's own averments in Paragraph 4.10 of the O.A. that the arrears of provisional pension, CGEIS and leave encashment have been paid by the respondents themselves to the applicant prior to the Tribunal's order dated 3.11.1997 in O.A. 1477/97. This is also prior to the Tribunal's order dated 18.1.1999 in CP 156/98. In the facts and circumstances of the case, the claims of the applicant for interest on these amounts, taking into account the Tribunal's order dated 3.11.1997, appear to be an after thought and to this extent it is also barred by limitation. Therefore, in the facts and circumstances of the case, the claims of the applicant for interest under these three heads are rejected.

11. As regards the interest claimed on commutation of pension which has been paid to the applicant on 16.2.1999, having regard to the order of the Tribunal dated 10.5.1999 in R.C. Lal's case (supra) which has also been upheld by the Hon'ble Delhi High Court vide order dated 22.9.1999, the claim for interest is allowed. The respondents shall pay interest @ 12% per annum from the due date when this amount should have been paid to the applicant in accordance with the rules and instructions, including the aforesaid Government of India's Decisions under Rule 68 of the CCS (Pension) Rules,

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17

1972, till the date of actual payment. Necessary action in this regard shall be taken within a period of two months from the date of receipt of a copy of this order.

12. O.A. disposed of in terms of paragraphs 8 and 11 above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'