

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1353/99

New Delhi: this the 27<sup>th</sup> day of MARCH, 2001.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

G.K. Shukla,  
S/o Shri Shanti Prasad Shukla,  
5/371, Viramkhand,

Gomti Nagar,  
Lucknow (UP) ..... Applicant.  
(By Advocate: Ms. Anuradha proxy for Sh. V.K. Rao).

Versus

1. State of UP  
through  
Secretary,  
Home Deptt.  
UP Shashan,  
Lucknow.

2. UOI  
through  
Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.

3. Director General of Police,  
UP,  
Lucknow.

..... Respondents.

(None appeared)

ORDER

S.R. Adige, VC(A):

Applicant seeks a direction to respondents to pay interest @ 18% p.a. w.e.f. 30.6.88 on retirement benefits, gratuity etc ordered to be paid to him by Tribunal vide its order dated 20.5.97 in OA No. 202/96.

2. In that OA, order dated 21.9.89 initiating disciplinary proceedings against applicant was quashed and the respondents were directed to grant applicant all service benefits available to him as if no disciplinary proceedings had been initiated against him. These directions were to be implemented within 4 months from the date of receipt of a copy of the order.

(X)

3. Thereafter applicant filed CP No. 49/98. That CP came up for hearing on 29.4.98 on which date respondents counsel informed us that necessary payments had been paid to applicant in terms of the Tribunal's order dated 20.5.97 in OA No. 202/96. A prayer for grant of interest on delayed payment was pressed by applicant's counsel <sup>the</sup> in CP, but as no such direction was contained in the impugned order dated 20.5.97 it was held in order dated 29.4.98 disposing of the CP, that such a prayer could not be considered by the Tribunal in a CP and it was open to applicant to agitate the matter in accordance with law, if so advised.

4. Applicant has now filed the present OA seeking a direction to respondents to pay interest on the delayed payment of retirement benefits.

5. We have heard applicant's counsel Ms. Anuradha. None appeared for respondents. We have perused the pleadings.

6. We note that Tribunal's order dated 20.5.97 (supra) has been challenged in the Delhi High Court in CWP No. 2005 of 1998 and its operation has been stayed vide Delhi High Court's ex parte interim order dated 24.4.98 (Annexure-R1). We note that despite that ex parte interim order dated 24.4.98 respondents had paid applicant's service benefits available to him as if no disciplinary proceedings had been initiated against him, and his counsel who appeared before Delhi High Court on 4.8.98 <sup>(Ann R-2)</sup> had submitted that applicant had received all (emphasis supplied) the benefits. In the light of above submission by respondents' counsel before the Delhi HC on 4.8.98, applicant cannot legally agitate claims at this stage for payment of interest.

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7. That apart, respondents in their WS which has been taken on record, have pointed out that the order dated 20.5.97 (supra) of the Tribunal is under challenge before the High Court and its operation has been stayed and till such time matter is finally decided by the High Court, the present OA is not maintainable.

8. Respondents have also pointed out that the present OA is barred by principles of constructive Res Judicata i.e. Section 11 Explanation IV and Order 2 Rule 2 CPC. The claim for interest was available to the applicant at the time of filing OA-202/96, but was not pressed during hearing; otherwise Tribunal's order dated 20.5.97 would have reflected it. The same view has been taken by the Hon'ble Supreme Court in the case of Commissioner of Income Tax Vs. T.P. Kumaran 1996(5) SLR 675 as well as in UOI Vs. Punni Lal & Ors. SC Services Law Judgments 1997(1) 12.

9. Under the circumstance, the OA is dismissed.  
No costs.

*A. Vedavalli*  
( DR. A. VEDAVALLI )  
MEMBER (J)

*S.R. Adige*  
(S.R. ADIGE)  
VICE CHAIRMAN (A).

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