

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1769/99

New Delhi this the 26th day of June 2000.

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

Sone Lal

Applicant

(By Advocate: Shri K.P. Dohare)

Vs.

Union of India & Others.

Respondents

(By Advocate: Shri Gajinder Giri)

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

(Dr. A. Vedavalli)
Member (J)

Mittal

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1769/99

New Delhi this the 26th day of June 2000

Hon'ble Dr. A. Vedavalli, Member (J)

Sone Lal,
Addl. Legal Advisor (Retd),
R/o B2/63, Paschim Vihar,
New Delhi-110 063.

Applicant

(By Advocate) Shri K.P. Dohare

Vs.

1. Union of India through
The Secretary, Ministry of Personnel,
Government of India,
North Block, New Delhi-110 001.

2. Director,
Central Bureau of Investigation,
CGO Complex, Lodhi Road, New Delhi-110003.

Respondents

(By Advocate: Shri Gajinder Giri)

O R D E R

Hon'ble Dr. A. Vedavalli, Member (J)

The applicant, Sone Lal, a retired Government servant is aggrieved by the alleged delay in payment of his retiral benefit i.e. Pension, Gratuity, Commutation of Pension, Group Insurance Contribution etc. as per the details given in his representation dated 21.9.98 to the Respondents (Annexure A1). He is claiming payment of interest on the said benefits from the Respondents @ 24% per annum in this O.A.

2. The applicant who was working as an additional Legal Adviser in the Central Bureau of Invesatigation (CBI) retired from Government service on attaining the age of superannuation on 31.1.1998. However, he was paid his retiral dues much later and not on the due dates as per the particulars given in Para 4.5 of the OA. which is as under:

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| <u>Sl.No.</u> | <u>Amount</u> | <u>Partilculars</u> | <u>Date of Payment</u> | <u>Delay No. of months</u> | <u>Interest at Market & days</u> |
|---------------|---------------|---------------------|------------------------|------------------------------|--------------------------------------|
| 1. | 1885142/- | Commutation | 19.5.98 | 107 (3 months 19 days) | 13025/- |
| 2. | 117027/- | Gratuity | 10.7.98 | 159 (5 months 10 days) | 12232/- |
| 3. | 53095/- | GPF | 18.3.98 | 45 (1 month 18 days) | 1571/- |
| 4. | 159224/- | Leave Encashment | 14.2.98 | 13 days | 1333/- |
| 5. | 28440/- | Group Ins. | 12.2.98 | 11 days | 205/- |
| 6. | 23098/- | Pension | 6.10.98 | 247 (Eight Months 6 days) | 4737/- |

3. Aggrieved by the alleged delay in payment of the said dues, the applicant filed the aforesaid representation. There was no reply to the said representation and hence he filed the present O.A.

4. The OA is contested by the Respondents who have filed their counter to which a rejoinder was filed by the applicant.

5. I have heard the learned counsel for both the parties. Pleadiangs and the material papers and documents placed on record have been perused.

6. Learned counsel for the applicant, Shri K.P. Dohare, stated that the applilcant submitted all the pension papers duly filed in to the Department well in advance i.e. about six months prior to his retirement. He submitted that in spite of such submission of pension papers well in advance the respondents failed to pay his retiral dues on

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the due dates and that there was considerable delay in the payment of the said dues. He contended that in view of the relevant provision of the CCS (Pension) Rules 1972 and in particular Rules 32, 56, 58, 59, 60, 61, 65 and 83, Rules 15(3)(b)(i) and CCS (Commutation of Pension) Rules 1981, and Rule 39(2)(a) of CCS (Leave) Rules 1972, he is entitled for payment of interest on the retiral dues as claimed in the OA since the Respondents have deliberately ignored the aforesaid rules and made the payment to him only after considerable delay. He has also argued that the action of the Respondents has passed a lot of mental agony and harassment to the applicant and that they are bound to pay him the interest on the delayed payment as claimed in the OA. He has relied strongly on the decision of the Supreme Court in R. Kapur Vs. Directorate of Inspection JT 1994(6) SC 354 and State of Kerala and Ors. Vs. M. Padmanabhan Nair 1955(1) SCC 429 and also the orders of this Tribunal dated 4.9.1992 in OA 1291/ 91 and order dated 20.7.1999 in OA 2470/98 (Annexure A.2) in support of his argument and prayed that the OA may be allowed with costs.

7. Learned counsel for the Respondents, Shri Gajinder Giri, in reply, submitted that the applicant before joining CBI on 21.4.1984 had been working in the Enforcement Directorate as Assistant Legal Adviser and the pension of the applicant was to be fixed on the basis of service rendered by him in that Department also. But the applicant wanted benefit of added years of qualifying service while the pension papers had already been processed before his retirement. The Department of Personnel and Training was moved by a letter dated 16.1.1998 (Annexure A to the Counter) for concurrence of the competent authority in

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allowing both the benefits i.e. Past service and added years of service under Rule 30 of CCS (Pension) Rules. The learned counsel for respondents further submitted to the concurrence could not be finalised till the date of his retirement i.e. 31.1.1998 and that the applicant by his letters dated 12.2.1998 and 13.2.1998 i.e. after his retirement (Annexure 'B' and 'C' to the counter) gave his option that since the weightage of five years or so has not been cleared by the Ministry till then, his pension/commutation papers may be cleared without such weightage but subject to his right to claim in future. In view of the aforesaid letters giving clear consent to the applicant in writing the pension papers were processed and sent to P&AO finally on 2.3.1998. P&AO authorised the payment of commuted pension and DCRG on 27.4.1998. PPO was issued on 8.6.1998 with a copy to the applicant. Commuted ~~~~~~ value of pension was paid on 18.5.1998 and DCRG was paid on 8.6.1998. The application for final withdrawal of GPF was received from the applicant only on 19.1.1998 and was forwarded to PAO, CBI on the same date. Payment was made to the applicant on 18.3.1991. Payment of CGEIS and Leave Encashment is required to be made only after actual retirement on 31.1.1998. Sanction was received on 2.2.1998 and payment was made on 12.2.1998 and 14.2.1998 respectively.

8. It was contended by the learned counsel for the Respondents that in the above circumstances the delay in payment of the retiral dues is not due to any deliberate or wilful delay on the part of the Respondents and hence they are not liable to pay any interest on the said payment as



claimed by the applicant. He prayed that in the aforesaid facts and circumstances, the OA may be dismissed as the same is devoid of any merit.

9. Learned counsel for the applicant in reply to the aforesaid submissions and arguments contended that it is quite evident from the Respondent's letter dated 16.1.1998 (Annexure A to the Rejoinder) recommending his case to the DOP&T that they are very well aware of the legal position about the benefit to be given regarding past service and also the benefits of added years of qualifying service to the extent of five years under Rule 30 of CCS (Pension) Rules 1972 and the fact that in a similar case such benefits had already been given. He contended that the plea of the Respondents that the delay in payment of the retiral dues is neither deliberate nor intentional is not tenable. Hence, it deserves to be rejected.

10. I have considered the matter carefully.

11. As per the law laid down by the Apex Court in the catena of cases including the decision in the State of Kerala and Ors. Vs. M. Padmanabhan Nair 1985 (1) SCC 429 and in S.R. Bhanrale Vs. Union of India and Ors. 1997 (1) AISLJ 1, the Government is under a duty to make prompt payment of all the retiral dues including pension and gratuity etc. to the retired Government employees on the date of his retirement failing which penal interest is liable to be paid to the Government pensioners. Retiral dues like pension, gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement. They have become valuable rights in the hands

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of the retired employees under various decisions of the Supreme Court. Any culpable or unjustified delay in settlement and disbursement of the retiral benefits by the Government will make them liable to pay interest on the delayed payments. It is further held by the Apex Court in several cases that the retired employee should not be made to run from pillar to post seeking settlement and payment of his retiral dues and the Government should ensure that the retired employee is not put to any mental agony or harassment due to Government's delay.

12. It is admitted by the Respondents that the pension papers were submitted by the applicant well in advance and in time before the date of his retirement. As per the relevant rules i.e. CCS (Pension) Rules 1972 and in particular, Rules 56, 58, 59, 60, 61, 62 & 63 of the said Rules, the Head of the Department is responsible for payment of the pension, DCRG and other retiral benefits to the retired employees on the due date and the initition of the process for calculation of pension etc. should start two years prior to the date of employee's retirement on attaining the age of superannuation which is well known to his Department. It is seen from the Respondents own letter dated 16.1.1998 (Annexure A1 to the counter) that they were well aware of the order of this Tribunal noted (supra) regarding the benefit of added years of service under Rule 30 of the CCS (Pension) Rules 1972 and also the benefit of the past service which were given to some of their own employees who were similarly situated as the applicant in the present OA. The Respondents, therefore, ought to have initiated and processed the case of the applicant well in time including, inter alia, the obtaining of any sanction

from other authorities, if necessary. They should have completed the entire process well before the date of retirement of the applicant. The "option" letter given by the applicant regarding the pension dated 12.2.1998 and 13.2.1998 (Annexure 'B' and 'C' to counter) noted (supra) it is obvious that are given by him due to the delay by the Respondents in processing his case his pension etc. and is also without "prejudice" to his right to claim the aforesaid benefit in future. The Respondents, therefore, cannot justify their own inaction, lethargy and negligence only on the ground that the said option was given by the applicant belatedly. Moreover, there is nothing on record to show that any provisional pension or provisional gratuity at least have been paid to the applicant on the date of his retirement. Nothing prevented the applicant from making the said provisional payment, if the regular pension and final gratuity could not be paid to the applicant due to any reason on the said date.

13. On the facts and circumstances of this case and in the light of the foregoing discussion, I am of the view that the Respondents have failed to show any valid and tenable ground or reason justifying their delay in the payment of retiral dues to the applicant. The said dues ought to have been paid to the applicant on the date of his retirement. In the result the OA is allowed to the extent shown below:

The Respondents are directed to pay to the applicant simple interest @ 24% per annum on the delayed payment of pension, gratuity, GPF, pension commutation, leave encashment and

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(19)

Group insurance from the date of his retirement
i.e. 31.1.1998 till the date of actual payment
of the said dues within three months from the
date of receipt of a copy of this Order.

Order accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

Mittal