

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 182/99

T.A. No.

199

14

DATE OF DECISION 22-2-2000

Sh. R.K. Chopra

....Petitioner-

Present in person

....Advocate for the  
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

None for the respondents

....Advocate for the  
Respondents.

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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  
NEW DELHI  
OA 182/99

New Delhi this the 22nd day of March, 2000

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

Sh. R.K. Chopra  
(Staff No. Ex-SDE-33666)  
83, Sarojini Park,  
Street No.12, Shastri Nagar,  
Delhi-31.

.. Applicant

(Applicant present in person )

versus

1. Union of India  
Secretary Telecom  
Department of Telecommunication  
Sanchar Bhawan, New Delhi.

2. Chief General Manager,  
M.T.N.Ltd.,  
Khurshid Lal Bhawan, New Delhi.

3. Chairman Cum Managing Director,  
M.T.N.Lrd.,  
Jeevan Bharti Tower-I  
12th Floor, 124, Connaught Circus,  
New Delhi-110001

.. Respondents

(None for the respondents )

O R D E R (ORAL)

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

The applicant has filed this application praying for a direction to the respondents to pay interest @ 18% per annum w.e.f. 27.9.96.

2. The brief relevant facts of the case are that the applicant, while working as Sub-Divisional Engineer(Legal)/SDE(Legal) with respondents 2-3 had submitted an application requesting the respondents to accept his resignation. On 11.2.97, the competent authority in the office of Respondent 2 conveyed the acceptance of the request of the applicant for resignation w.e.f. 27.9.96. According to the applicant, he had submitted again <sup>a</sup> representation on 29.5.97 for non-receipt of pensionary benefits. According to him, he had submitted all the relevant papers for grant of pensionary benefits upon his resignation being accepted in accordance with the rules.

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He had submitted another representation on 15.6.98 claiming interest <sup>at</sup> 18% per annum on the delayed payment of pensionary benefits. He has also relied on the judgements of the Hon'ble Supreme Court in Union of India Vs. Justice S.S.Sandhawalia (1994 U.P. L.B.E.C. page 192) and R.K.Kapoor Vs. Director of Inspections, Income Tax and another (JT 1994(6) SC 354).

3. The applicant has also submitted that finally the respondents paid the pensionary amounts due to him as given in paragraph 8(1), namely, (i) commuted value of pension on 21.8.98, (ii) arrears of pension on 7.9.98 and (iii) gratuity on 20.8.98. The main contention of the applicant is that there has been no delay on his part in submitting the forms duly completed for receipt of pensionary amounts. He has also submitted that it was only subsequent to his reminder /representation dated 15.6.98 and his visit to <sup>the</sup> office of respondent No.3, he was informed that he has yet to fill up another application/proforma, namely <sup>the</sup> building clearance certificate which he had completed and submitted on 30.7.98. This fact has also been stated by the respondents that they have received the proforma from the applicant for the building clearance certificate on 30.7.98 and thereafter the building clearance was obtained by them on 4.8.98. The applicant has submitted that if the respondents had enclosed this proforma for the building clearance certificate along with <sup>the</sup> other papers, he could <sup>have</sup> completed and submitted <sup>then</sup> soon after his resignation which was accepted in February, 1997, <sup>and</sup> the delay could have been avoided. His contention, therefore, is that the delay is on the part of the respondents and it cannot be attributed to him so as to deprive him <sup>from</sup> the interest <sup>on</sup> pensionary benefits which he is otherwise entitled as per the settled law.

4. I have carefully perused the reply filed by the respondents. 5. The main submission in the reply is that even in the normal course, about six months are required to process and finalise the release of pension. According to them, the applicant had failed to submit the duly filled proforma for issue of the building clearance

certificate, in the absence of which the pensionary benefits could not be released to the applicant. As mentioned above, they have submitted that the applicant has submitted this proforma duly completed on 30.7.98. Thereafter they had taken necessary action to have the pensionary amounts paid to the applicant. Hence they have contended that the delay, if any, ~~done~~ is entirely attributable to the applicant and not to them. They have, therefore, prayed that the applicant is not entitled to any relief by way of interest and that the OA may be dismissed.

5. From the facts mentioned above, it is seen that the applicant's request for acceptance of the resignation from the post of SDE(Legal) has been accepted by the competent authority on 11.2.97 w.e.f. 27.9.96(FN) i.e. the date on which he had requested for such acceptance.

6. The applicant has submitted that the proforma of certificates which had been given to him in Feb., 1997 i.e. soon after the letter dated 11.2.97 was duly filled by him and returned to the office of R-3 for further necessary action. In the reply filed by the respondents, they have nowhere stated that along with these necessary documents, they have also enclosed or attached the building clearance certificate. From the facts of the case, it appears that it was only after the applicant himself had made a number of representations for non-payment of pensionary benefits due to him that the respondents, thereafter, gave him this proforma for filling up the same which he had done and ~~had~~ submitted, admittedly on 30.7.98. If, as contended in the reply by the respondents, this proforma was <sup>a</sup> necessary document to be filled up alongwith the other papers in order to receive <sup>the</sup> pensionary amounts, there was no reason why the respondents should not have enclosed this proforma in the first instance. From the materials on records, it is clear that it was only after the applicant had made representations to the respondents for release of his pension, <sup>that</sup> They had given him this proforma dealing with the building clearance certificate which he had duly completed and submitted on 30.7.98. It is relevant to note that ~~by~~ the respondents by their own action and order dated 11.2.97 have

chosen to accept his resignation w.e.f. 27.9.96 (FN). (8)

Admittedly, the applicant has also submitted the duly completed proforma for receipt of pensionary benefits sometime in Feb., 97 i.e. soon after he was conveyed the acceptance of his resignation by letter dated 11.2.1997.

7. Taking into account the facts and circumstances of the case, the submission of the respondents that the applicant himself was wholly responsible for the aforesaid delay, cannot be accepted. Their contention is that since the applicant has been gainfully employed in another organisation after being relieved from the respondents ~~and~~ hence he has not suffered any financial hardship <sup>That</sup> is no reason at all for denying him the benefits of interest for the delayed action on their part for releasing the pensionary amounts due to him which has accrued for the services rendered by him with respondents 2-3. The applicant's contention that there has been delay in making payment of his retiral benefits, in the circumstances of the case, appears to be reasonable.

8. In view of what has been stated above, the OA succeeds and is allowed to the extent <sup>of 12%</sup> by allowing 12% interest on commuted value of pension, arrears of pension and gratuity to the applicant. This shall be payable to the applicant w.e.f. 1.10.1996 to the date of actual payment of these pensionary amounts. The payment by way of interest shall be paid to the applicant within two months from the date of receipt of a copy of this order, failing which the respondents are liable to pay 15% interest, thereafter till the date of actual payment. No order as to costs.

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

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