

Central Administrative Tribunal  
Principal Bench

(13)

O.A. 2127/99

New Delhi this the 21st day of September, 2000

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

N.C. Verma,  
298, RPS Flats,  
Madangir,  
New Delhi-62.

Applicant.

(By Advocate Shri D.S. Garg)

Versus

Govt. of NCT through

1. The Director,  
Department of Social Welfare,  
Govt. of NCTD,  
Canning Lane, K.G. Marg,  
New Delhi-1.
2. The Chief Secretary,  
Govt. of NCTD,  
Alipur Road,  
Delhi-54.
3. The Lt. Governor,  
Raj Niwas,  
Delhi. .... Respondents.

(By Advocate Shri Rajinder Pandita)

O R D E R

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

The applicant has filed this application following the Tribunal's order dated 9.2.1998 in OA 849/97. The main prayer of the applicant is for a direction to pay 18% interest on the arrears of Dearness Allowance (DA) (interim relief) payable per month on basic pension for the period from 1.9.1995 to 13.12.1998 and to pay 24% interest on the amount of interest so arrived at as per prayer 8(a) from 14.12.1998 till the date of actual payment. He has relied on the judgements of the Supreme Court in **J.S. Parihar Vs. Union of India** (JT 1996 (9) SC 608) and **Beni Prasad Vs. Union of India**

13

**& Ors.** (ATR 1987(2) 205), decided on 24.12.1986. Shri D.S. Garg, learned counsel has submitted that DA is part of ~~the~~ pension, as held in **Beni Prasad's case** (supra) and, therefore, when the Court had ordered the payment of interest on retiral benefits while disposing of OA 849/97 by order dated 9.2.1998, interest was also admissible on DA. He has relied on Rule 3 (o) of the CCS (Pension) Rules, 1972 (hereinafter referred to as 'the Pension Rules'), in which pension has been defined as "including gratuity except when the term pension is used in contradistinction to gratuity." His contention is that following the judgement of the Tribunal in **Beni Prasad's case** (supra), pension should also include DA on which the present claims for interest have been made. He has also submitted that this is a separate cause of action as the respondents have failed to give the interest on the <sup>part B</sup> DA of the pension.

2. The above claims have been denied by the respondents. Shri Rajinder Pandita, learned counsel has submitted that following the Tribunal's order dated 9.2.1998, the respondents have complied with the same and nothing survives in the O.A. He has also submitted that CP 164/98 in OA 849/97 has also been dismissed by the Tribunal by order dated 8.1.1999. He has also relied on the Definition of "Pension" as given in Rule 3 (o) of the Pension Rules, wherein it is stated that pension includes gratuity except when the term pension is used in contradistinction to gratuity, but does not include dearness relief. This provision has been amended by

J8

(S)

-3-

Government of India, Department of Pension and Pensioners Welfare Notification dated 22.1.1991, published as S.O. No. 409 in the Gazette of India, dated 9.2.1991. His contention is that as the applicant has retired from service w.e.f. 31.5.1995 after the amendment Notification issued in 1991, the Tribunal's order dated 9.2.1998 in OA 849/97 has been correctly and fully implemented. He has, therefore, submitted that interest on DA paid on pension is not payable to the applicant and the O.A. may be dismissed.

3. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

4. In Rule 3(o) of the Pension Rules, as amended by the Gazette Notification, S.O. No. 409 dated 9.2.1991, it is clear that pension does not include dearness relief. The applicant has retired from service w.e.f. 31.5.1995. The order of the Tribunal in OA 849/97 has been given on 9.2.1998 directing the respondents to finalise and make payment of all retiral benefits to the applicant and also pay interest beyond a period of three months from the date of his retirement. The learned counsel has relied on the unamended Rule 3(o) of the Pension Rules which has also been dealt with by the Tribunal in its order dated 24.12.1986 in Beni Prasad's case (supra), which does not, therefore, assist the applicant in the present case. The applicant has retired

2b

...4...

from service after coming into force of the Govt. of India S.O. No. 409 dated 9.2.1991, and this Rule will be applicable to the facts of the case. Therefore, the implementation of the Tribunal's order dated 9.2.1998 by the respondents, excluding dearness relief from pension is in terms of Rule 3(o) of the Pension Rules as amended and cannot be faulted. The applicant's claim for interest on DA part of the pension is not in accordance with the relevant pension Rules.

5. In the result, for the reasons given above, I find no merit in this application. The O.A. ~~same~~ is accordingly dismissed. No order as to costs.

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

"SRD"