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Central Administrative Tribunal
Principal Bench

O.A. 2319/99

New Delhi this the 10th day of July, 2000

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

C. S. Gupta,
Ex. A.M.D.O. 1752/127, Shanti Nagar,
Tri Nagar, Delhi-110035. Applicant.

(By Advocate Shri M. K. Bhardwaj)

Versus

Union of India through

1. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-8.
2. The Joint Secretary,
(Govt. of India), Ministry of
Agriculture, Deptt. of AH
and Dairying, Krishi Bhawan,
New Delhi.
3. The Dy. General Manager (Admn.),
Govt. of India,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110008.
4. The F.A. & Chief Accounts Officer,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-8. Respondents.

(By Advocate Shri V. S. R. Krishna)

O R D E R (ORAL)

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

The applicant is aggrieved by the Memorandum issued by the respondents dated 6.9.1999 and 29.4.1999 whereby his request for payment of interest on the delayed payment of gratuity and other pensionary amounts has been rejected by them.

2. The brief facts of the case are that the applicant retired on superannuation from service of the

respondents as AMDO on 31.12.1994. He had been placed under suspension and charge-sheeted under Rule 14 of the CCS (CCA) Rules, 1965 by order of the same date. He had been charged with certain offences of lack of devotion to duty and integrity under the CCS (Conduct) Rules, 1964. According to the respondents, the applicant had accepted the charges and had deposited the entire amount in question, that is Rs. 24,333/- on 6.1.1995, that is within six days of the issue of the suspension order and charge-sheet.

3. Shri M.K. Bhardwaj, learned counsel has submitted that if the position, as stated above, that the applicant had deposited the amount of Rs. 24,333/- to the respondents on 6.1.1995 is correct, they have taken an inordinately long period of more than two years to drop the charges issued to him by Memorandum dated 31.12.1994, by order dated 17.2.1997. Learned counsel has also submitted that in any case, the respondents have also failed to follow Rule 69 of the CCS (Pension) Rules, 1972 (hereinafter referred to as 'the Pension Rules') in not granting him provisional pension even where departmental or judicial proceedings were pending. He has also submitted that as the charge-sheet earlier issued to the applicant had been dropped, which means that there was no departmental proceeding, the respondents ought to have followed the Govt. of India's Decision (1) para 3 under Rule 68 of the Pension Rules. His claim, therefore, is that the applicant is entitled for 18% interest on the delayed payment of pension, commutation and gratuity in the above facts and circumstances of the case.

8.

4. Shri V.S.R. Krishna, learned counsel has, on the other hand, submitted that the facts in the case show that the applicant had admitted the charge^{sheet} and paid the amount of Rs.24,333/- In the circumstances, the competent authority had taken a decision to drop the charges by order dated 17.2.1997 which he has submitted has been taken on a lenient view of the matter. He has, therefore, submitted that the applicant is not entitled to any interest as there was no delay on the part of the respondents and the disciplinary proceedings were pending against him at that time. He has also submitted that the applicant has filled up the necessary pensionary papers, as required under the Pension Rules only in April, 1997. This has been disputed by Shri M.K. Bhardwaj, learned counsel, who has submitted that the necessary papers duly completed had been submitted by the applicant before he retired from service, as required under the Rules and there was also vigilance clearance.

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

6. From the pleadings and the brief facts mentioned above, it is seen that within a week of the charge-sheet issued to the applicant in the matter of collection and deposit of sales-tax, he had tendered an amount of Rs.24,333/- for which receipt has been issued by the respondents on 5.5.1997. Thereafter, it appears that after two years, the respondents have issued the order dated 17.2.1997 in which they have noted the deposit of

the amount by the applicant towards sales-tax on Ghee as well as interest thereon and the competent authority had taken a decision to drop the charge-sheet memo dated 31.12.1994. From the reply filed by the respondents, it cannot be stated that the respondents have taken this decision within a reasonable time, but have taken over two years for this purpose. In this view of the matter, the contention of the learned counsel for respondents that no interest is payable on the delayed payment of retirement gratuity, as provided under paragraph 3 of Government of India's Decision (1) under Rule 68 of the Pension Rules, cannot be accepted. Similarly, the action of the respondents cannot also be held in conformity with the provisions under Rule 69 of the Pension Rules under which the competent authority is required to authorise the provisional pension to a Government servant who is either under suspension or against whom a departmental or judicial proceeding is pending, as was the case with the applicant. The applicant shall, therefore, be entitled to claim interest, which taking into account the facts and circumstances of the case is given as 12% per annum on the delayed payment of gratuity and pension amounts in accordance with Rules 68 and 69 of the Pension Rules. In the facts and circumstances of the case, as admittedly, receipt for the amount of Rs.24,333/- deposited by the applicant has been issued by the respondents on 6.1.1995, the applicant shall be entitled to interest from 1.4.1995 till the date of actual payment.

7. In the result, the application succeeds and is allowed with the following directions:

8.

(i) The impugned memorandum dated 6.9.1999 and 24.9.1999 rejecting the claim of the applicant for interest are quashed and set aside;

(ii) Considering the facts of the case and the provisions under Rules 68 and 69 of the Pension Rules, the respondents shall pay interest @ 12% per annum to the applicant, taking the due date as 1.4.1995 till the date of actual payment.

(iii) Necessary action in this regard shall be taken within three months from the date of receipt of a copy of this order.

No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'