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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2689/99

New Delhi, this the ^{25th day} ~~24th~~ day of January, 2001

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (ADMN)

Shri R.D.Garg
S/o Late Shri Chandra Bhan
Aged about : 63 yrs.
R/o 206A, Pocket DG-II,
Vikas Puri,
New Delhi - 110018

And retired as :
Technical Officer from the
Indian Agricultural Statistics Research
Institute, Library Avenue.
New Delhi.

...Applicant

(By Advocate Shri B.B.Raval)

V E R S U S

1. Indian Council of Agricultural Research
Through its Secretary
Krishi Bhavan,
New Delhi - 110001
2. The Director,
Indian Agricultural Statistics Research
Institute,
Library Avenue,
New Delhi - 110012

...Respondents.

(By Advocate Shri V.K.Rao)

O R D E R

Shri Govindan S. Tampi, Member (Admn):

Order of the Chief Administrative Officer,
Indian Agricultural Statistics Research Institute
(IASRI) dated 7-10-99, rejecting the claim of the
applicant for payment of interest @ 18 % p.a. on the
retiral benefits and the letter dated 25-10-99
intimating that no interest was due in terms of the
High Court's order are under challenge in this
application.

2. The applicant who joined IASRI in 1961 as
Senior Computer became a Technical Officer on 1-7-1976
from which post he retired on 30-6-1996. While in

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service he was allotted a residential quarters at Krishi Niketan, Paschim Vihar, New Delhi, which he did not vacate on retirement and sought retention of the same. The respondents issued a memorandum on 12-8-96 cancelling the accommodation w.e.f. 31-8-96 and directed the payment of damage rent beyond the period of two months. They also held back his pensionary benefits. ON his filing OA No. 1892/97 seeking directions to the respondents for grant of withheld benefits and compensation for harassment mental torture etc, the Tribunal after hearing him an placing reliance on the decision of the Supreme Court in UOI and Income Tax Vs R. Kapoor (JT 1994 (6) SC 354) allowed the application and directed the respondents to disburse the pension - any benefits with interest @ 18 % w.e.f. 1-7-96. On the respondents filing a CWP No. 1968/1998, the Hon'ble High Court of Delhi passed orders on 9-10-1998 holding that the applicant could be entitled to interest only subject to his agreeing to pay damages as per Rule 23. On 3-3-99, Director, IASRI approved the recovery of Rs. 18,227/- (Rupees eighteen thousand two hundred and twenty seven only) from the dues, towards licence fee, water charges etc. for the quarters during the period of unauthorised occupation, which he had vacated on 27-2-99. In his letter dated 15-4-99 he submitted that Rs. 18,227/- (Rupees eighteen thousand two hundred and twenty seven only) was recovered as damages as according to him licence fee etc. could come to only Rs. 136/- (Rupees one hundred and thirty six only) per month and, therefore, could amount only to Rs. 4352/-. He also stated that he was entitled to the award of interest @ 18 % on his entire retiral benefits, more

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so as damages have already been recovered from him. Not having received any response from the respondents he issued a reminder on 29-7-99 reiterating his request which he followed up with a legal notice on 27-9-99. This was followed by the letter from the Chief Admn. Officer IASRI on 7-10-99 rejecting his claim for payment of interest and another letter from the Asstt. Engineer IASRI stating that the Delhi High Court had not directed any payment of interest. These are the two letters under challenge.

3. The grounds raised by the applicant are as follows :

- (a) Following the decision of the High court he was entitled for the release of pensionary benefits, on his vacation of the quarters which he did.
- (b) The High Court had clearly observed that he can claim interest if he was prepared to pay damage rent as per Rule 23.
- (c) The Deptt. had already recovered Rs. 18,227/- and he was prepared to pay the balance amount of Rs. 38,917/- after deducting which he should be paid the interest @ 18 %.

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(The Delhi High Court has not passed a specific direction in the matter of interest but had left it to be settled between the applicant and the respondents)

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- (d) The Deptt. had recovered Rs. 18,227/- which infact was the damage rent as the licence fee etc came only to Rs. 4352/-. Still as he had shown his willingness for paying the balance of Rs. 38,917/- of damage rent the payment of the entire benefits with interest could not be denied.

The applicant therefore prayed that the impugned orders be quashed and the respondents be directed to release the interest on his retiral benefits after adjusting Rs.38,917/- as well as that he be awarded cost.

4. The respondents contest the applicant's plea on the following grounds:

- a) The application is hit by res judicata as the issue has been settled by the High Courts' decision in the petition filed by the respondents against the Tribunal's orders.
- b) The applicant is seeking to re-agitate the matter on the same ground.
- c) Observation of the Delhi high Court on 9.10.98 that the applicant could be entitled to interest only subject to his agreeing to pay damages as per Rule 23 does not give him any cause of action as he had vacated the quarters only thereafter, though he had retired as back as 30.6.96. Holding back the
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retiral benefits was on account of the applicant's not vacating the quarters even after superannuation and the applicant cannot seek and obtain any benefit for the wrongs committed by him.

- d) Supreme Court's decision in Union of India & ANR Vs K. Balakrishnan Nambiar (AIR 1998 SC 2958) has held that interest was not payable when the Govt. servant continued to be in unauthorised occupation even long after his retirement.
- e) In terms of IASRI (Revised Allotments of Residences) Rules 1992, a retired employee can retain the quarters only for a period of 2 months on normal licence fee and for the period beyond that he was liable to pay damage charges. This had been made clear to the applicant on 12.8.96 itself.
- f) As the applicant was in unauthorised occupation of the quarters w.e.f. 1.9.96 onwards and had vacated the quarters only after the judgement of the Delhi High Court, his case for interest stood extinguished.
- g) The recovery of Rs.18,227/- was only towards the rent, water and garage charges and the same was correctly ordered.

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O. J.

h) Even on payment of damage rent the applicant did not become eligible for receipt of interest. The same however is immaterial as no damage rent was ever charged.

In view of the above the applicant cannot succeed according to the respondents.

5. In his rejoinder, the applicant controverts the averments of the respondents and reiterates his pleas.

6. Heard both the counsel for the applicants and the respondent. According to Sh. B.B. Raval, learned counsel for the applicant, the High Court having recognised the fact that he was in an equitable position and that he could claim interest on payment of damage rent, it was evident that his right to interest stood vindicated. He therefore pleaded that on payment of the balance amount of damage rent, which he was prepared to effect, his right for getting the interest on the retiral dues held back was kept alive. The impugned orders therefore, deserved to be quashed, pleads Sh. Raval. on the other hand Sh. V.K. Rao, the learned counsel for the respondents states that the Hon'ble Delhi High Court not having passed any directions on payment of interest, whole reversing the Tribunal's order permitting the same, though it made a passing reference to the aspect of interest, the applicants has no case. The matter having been settled by the High Court did not warrant to be re-opened according to Sh. Rao.

7. I have carefully deliberated on the rival

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contentions and perused the records placed before me. Evidently the Tribunal had while disposing of the OA 1892/97, directed the respondents to release to the applicant, retiral benefits held back, with interest @ 18% . This had occurred because the respondents had failed to file reply inspite of opportunities given. However, in the CWP filed before the High Court the said decision has been reversed and the following order has been passed.

" The only order, which in the facts and circumstances, we consider appropriate is that on respondent No. 2 vacating he premises and handing over peaceful and vacant possession thereof to the authorised representative of petition No. 2 on or before 30.11.98, the entire payment of retiral benefits will be made to the respondent No.2 on or before 10.12.1996. Ordered accordingly. This petition stands disposed of".

8. Though in the penultimate para of the judgement there is the following mention" Respondent No. 2 could be held entitled to interest only subject to his agreeing to pay damages as per Rule 23" no direction in the above lines is given in the operative portion of the judgement. It is also worthwhile to mention that the above reference has been made by the Hon'ble Court as a prelude to assailing the order of the Tribunal granting interest. Evidently therefore the High Court has not at all upheld the plea for interest, subject to the applicants paying the damage rent. It has only directed the release of the retiral benefits to the applicant on his vacating the premises which he had been holding for nearly three years after his superannuation. Respondents are therefore justified in their plea that no cause of action for grant of interest has arisen in this case. The applicants plea otherwise are based on wrong premises

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and cannot be endorsed. respondents are not bound in any manner to accept the offer of payment of damage rent by the applicant, as no direction for the same exists. They are only called upon to release the retiral benefits on the applicant's handing over the vacant possession of the accommodation and nothing more. The applicant also has not proved his case that the recovery of Rs.18,227/- was towards damage rent, as it only works out to the normal licence fee and other allied charges for 32 months of unauthorised occupation, in terms of IASRI (Allotment of Residence) rules. Even otherwise nothing turns on this as the payment of interest has not been upheld by the Hon'ble Delhi High Court and the applicant is entitled only for grant of retiral benefits and nothing else.

9. In view of the above, I hold that the applicant has not made any case for the Tribunal's intervention. The application therefore, fails and is accordingly dismissed.

(Govindan S. Tampi)
Member (A)

25.1.2001

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