

Central Administrative Tribunal  
Principal Bench

O.A. 553/99

New Delhi this the 2nd day of December, 1999

Hon'ble Shri S.R. Adige, Vice Chairman(A).  
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Arjan Singh,  
S/o late Shri Nanak Singh,  
R/o 6/2, Double Storey Quarters,  
Prem Nagar, Janakpuri,  
New Delhi-110058.

Applicant

By Advocate Shri S.S. Tiwari.

versus

1. Union of India through,  
Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Director General of Ordnance Services,  
Master General of Ordnance Services,  
Army HQ, DHQ,  
New Delhi.
3. Secretary,  
Department of Pension and  
Pensioner's Welfare,  
Ministry of Personnel, Training,  
Public, Grievances and Pensions,  
Lok Nayak Bhawan, Khan Market,  
New Delhi.
4. The Chief Controller of Defence  
Accounts (Pensions),  
Allahabad (UP).
5. Commandant,  
Central Vehicle Depot,  
Delhi Cantt-10.

Respondents.

By Advocate Shri G. Giri.

ORDER

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

The applicant is aggrieved by the action of the respondents in recovering compound interest at 12% per annum from him on the amount payable by him on account of pensionary benefits sanctioned to him in terms of Paragraph 4 of the DOP&T O.M. dated 3.1.1995.

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2. The brief facts of the case are that the applicant had retired from Central Vehicles Depot, Delhi w.e.f. 20.4.1966. He was subsequently absorbed in the National Mineral Development Corporation Ltd. Government introduced a Scheme by O.M. dated 16.6.1967 which, however, did not cover the applicant's case for pro-rata pension as he was already absorbed in the Public Sector Undertaking (PSU) on 21.4.1966 i.e. prior to the issue of the Scheme on 16.6.1967. Following the judgement of the Supreme Court in T.S. Thiruvengadam vs. Union of India (SLP No. 12010/1988), the respondents had issued O.M. dated 3.1.1995. In the judgement, the Apex Court had held that restricting the benefits of O.M. dated 16.6.1967 only to those Central Government employees who had been absorbed in PSUs after this date would be arbitrary. The Government then issued O.M. of 3.1.1995 following this judgement, in which it was stated that they have decided that the benefits of O.M. dated 16.6.1967 may be extended to all Central Government employees who were absorbed in PSUs prior to 16.6.1967, subject to the conditions mentioned therein. The applicant had filed an earlier case (OA 491/96) which was disposed of by the Tribunal on 6.1.1997 with a direction to the respondents to take a final decision on the representation made by him within four months from the date of receipt of a copy of the order. Para 4 of the O.M. dated 3.1.1995 which has been impugned by the applicant reads as follows:

"4. Ministry of Finance, etc., are requested to settle the claims of the Central Government employees who were permanently absorbed in the Central PSUs prior to 16.6.1967 on the above basis, on receipt of a formal request from each such employee. O.P.F. benefits received in terms of Ministry of Finance O.M. dated 10.11.1960 will have to be refunded by the said employees to Government together with

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interest at the rate applicable to GPS accumulations on the date of such refund and calculated in the same manner as interest on GPF is worked out".

(Emphasis added)

3. Learned counsel for the ~~applicant~~ has submitted that pro-rata pension to the applicant was sanctioned by the respondents on 6.6.1998 but the actual payment was made on 19.8.1998, including final PPO issued on 9.2.1999. He has submitted that all along the respondents have denied pro-rata pension to the applicant which has now been granted. He had been given terminal benefits amounting to Rs.2716/- in 1966. His grievance is that the respondents have now charged compound interest @ 12% per annum on Rs.2716/- right from 1966, which amounts to Rs.1,07,806/-, whereas he submits that the respondents themselves are not paying any interest on the pensionary amount due to him and the delay caused by them. According to him, after the order was passed by the Tribunal in OA 491/96, a decision had to be taken by the respondents within four months i.e. around May, 1997, but they had issued the sanction only on 19.1.1998 and made the actual payment on 19.8.1998. Learned counsel has further contended that the applicant became entitled for pro-rata pension only after the judgement in T.S. Thiruvengadam's case (supra) which was made applicable to every one who retired even before 16.6.1967, by the Government O.M. dated 3.1.1995. He has, therefore, submitted that the amount which the applicant had to refund became due only when the decision was taken to grant him pro-rata pension in terms of this O.M. on the provisional Payment Order dated 6.6.1998 and when actual payment was made on 19.8.1998 and in any case the respondents cannot charge interest on the refundable amount from the date of his absorption in PSU i.e. 27.4.1966. Shri S.S. Tiwari, learned counsel, has, therefore, very vehemently submitted

that Para 4 of the impugned O.M. is unreasonable and may be quashed and set aside, and instead direct the respondents to pay the applicant 12% interest w.e.f. 27.4.1966 on the delayed payment of pensionary benefits with all arrears.

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4. On the other hand Shri G. Giri, learned counsel for the respondents, has submitted that the respondents have taken action only in accordance with the relevant Office Memorandum of 3.1.1995. He has submitted that for the purpose of extension of the benefits under this O.M., the retiral benefits already received by the employee under O.M. dated 10.11.1960, is required to be refunded along with interest as stipulated in Paragraph 4 of the O.M. He has submitted that accordingly interest has been correctly worked out as the amount of Rs.2716/- which comes to Rs.1,07,806/- and notified to be recovered from the applicant. He has also submitted that the Tribunal's order in O.A. 491/96 has also been implemented within a reasonable time and hence there is no delay in sanctioning the pro-rata pensionary retiral benefits. He has, therefore, prayed that the O.A. may be dismissed.

5. From the above facts, it is seen that following the judgement of the Supreme Court in T.S. Thiruvenkadam's case (supra) the Government by O.M. dated 3.1.1995 decided that certain pensionary benefits should be extended to Central Government employees who had rendered not less than 10 years service and were later absorbed in PSUs. The applicant had received Rs.2716/- as retiral benefit from the Government under O.M. dated 10.11.1960 in April, 1966 on which the respondents claim that it has to be refunded with compound interest from that date, in terms of Paragraph 4 of O.M. of 3.1.1995. This, according to the respondents, means

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an amount calculated on the basis of 12% interest, which is the current rate of interest, on the refundable amount due from the applicant from 27.4.1966. The applicant has contended that probably at that time the interest was 2% or even less. This is a question of fact. Admittedly, the respondents have also not paid any interest on the pro-rata pension which has now become due to be paid to him from 1966 by virtue of their own order dated 3.1.1995 which they have sanctioned to him only in January, 1998 and paid in August, 1998. In the facts and circumstances, the action of the respondents in charging 12% interest on the refundable amount from the date it was paid to the applicant under O.M. dated 10.11.1960 would not appear to be either reasonable or justified, as admittedly the interests rate prevailing at that time was much lower. It has also to be kept in view that this is a welfare measure concerning senior citizens. To this extent, the last four lines of the O.M. dated 3.1.1995 containing the manner and rate of interest at which the amount is refundable is liable to be quashed and set aside. The respondents to charge only simple interest at the rate of 6% or less, whichever is less for that year, on the refundable amount from the date of payment under O.M. of 10.11.1960 till the date when the refund is made. Apart from that, in the present case, the action of the respondents in implementing their own O.M. dated 3.1.1995 read with the Tribunal's order dated 6.1.1997 in OA 491/96 in finally making the pensionary payments to the applicant is also considerably delayed without any satisfactory explanation, on which they are also liable to pay interest @ 12% per annum.

*JB*

6. In view of what has been stated above, the O.A. succeeds and is allowed as follows:

(a) The last four lines of the O.M. dated 3.1.1995 regarding the manner and rate of interest at which the amount is refundable is quashed and set aside; Respondents shall charge only simple interest at the rate of 6% or less, whichever is less for that year, on the refundable amount till the date the refund is made.

(b) In the present case, the respondents shall also pay 12% interest for delay on the pro-rata pension amount from 1.6.1997 till payment was made to the applicant in August, 1998.

(c) The respondents shall also fix the responsibility on the concerned officials for the delay caused in this case and take suitable action accordingly.

No order as to costs.

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

S.R. Adige  
(S.R. Adige)  
Vice Chairman (A)

'SRD'