

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 92 of 1999

New Delhi, this the 24th day of December, 1999

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

(3)

Shri M.S.Bhatnagar,
S/o Late Shri Govind Swarup
D-193, Karampura,
New Delhi

-APPLICANT

(By Advocate: Shri D.R.Gupta)

Versus

1. The Chief Secretary,
Govt. of N.C.T. of Delhi
5, Sham Nath Marg, Delhi

2. Commissioner of Food & Supplies
Govt. of N.C.T. of Delhi
'K' Block, Vikas Bhawan,
I.T.O., New Delhi

3. The Additional Secretary(F&S)
Dept. of Food & Supplies,
Govt. of NCT of Delhi
I.T.O., New Delhi

-RESPONDENTS

(By Advocate: Shri H.L.Jad)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant is aggrieved of the decision of the Additional Secretary (F&S), respondent no.3 communicated to him vide letter No.F.8(155)/90-F&S/Admn./2951 dated 4.12.98, whereby he has been denied interest on delayed payment of gratuity. The applicant has also alleged that he has not been allowed to commute his pension with reference to the next date of birth following the date of retirement in relaxation of the Rules under F.R. 5-A. He has made the following prayers:-

"8.(i) To allow the application with cost to the Respondent.

8.(ii) Request the impugned order dated 4.12.98 as A-1 whereby the applicant has been denied on delayed payment of Gratuity after declare it illegal

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being in contravention of G.O.I. decision (1) reproduced below Rule 68 of CCS (Pension) Rules, 1972 as at A-2.

8.(iii) To direct the Respondent to pay interest @ 18% on delayed payment of Gratuity because there has been culpable delay on the part of the Respondent, from the date of retirement i.e. 1.8.94 till the date of actual payment within a specified period of one month failing which the Respondent may be made liable to pay interest on the quantum of interest as well till the date of actual payment.

8.(iv) To direct the Respondent to sanction the Commutation of Pension with reference to next date of birth following the date of retirement in relaxation of the Rules under F.R. 5-A."

2. Facts in brief are that the applicant was working as Inspector Grade II in the Office of Commissioner of Food & Supplies, Govt. of N.C.T. Delhi. He was to retire on 31.7.94. However on 29.7.94 i.e. two days before the date of his retirement (30.7.94 and 31.7.94 being closed holidays), he was served with a charge memo. He challenged the chargesheet before the Tribunal by filing an O.A.2026/94. The Tribunal vide its order dated 12.5.95, directed the respondents to expedite the disciplinary proceedings and finally the applicant was exonerated of the charges levelled against him vide order dated 26.12.97.

3. After the applicant was exonerated, the amount of gratuity was released to him on 10.2.98 and commuted value of pension was also sanctioned to him vide letter dated 10.2.98. The applicant is aggrieved of the same and states that as per Rule 68 of CCS (Pension) Rules, he was entitled to interest on the delayed payment of gratuity since he had been exonerated in the departmental inquiry. He also submitted that as per Rules under F.R. 5-A, he was entitled to relaxation and commutation should have been granted to him with reference to the next date

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of birth following his date of retirement. The applicant has claimed 18% interest on delayed payment of gratuity on the ground that there has been culpable delay on the part of the respondents.

4. Respondents have not contested the petition seriously. They have submitted that they are agreeable to pay simple interest on D.C.R.G. as per Rule 68 of CCS (Pension) Rules. As regards commutation of pension, it is stated in reply to para 4.7 of the O.A. that the applicant is not entitled to the same.

5. As regards the payment of interest on delayed payment of DCRG, learned counsel for the applicant relied upon a judgement of the Co-ordinate Bench of this Tribunal in O.A.2379/98 whereby in the similar circumstances, applying Rule 68 of CCS (Pension) Rules, the Tribunal had allowed interest at the rate of 12%, compounded annually. Facts of the present case are almost similar to the case cited by the applicant's counsel. The order of the Tribunal in O.A.2379/98 was challenged before the High Court in C.W.No.5749/99 and the same was dismissed in limine.

6. Following the judgement of the Tribunal in O.A.2379/98, I am also of the considered opinion that the applicant should be allowed 12% interest on D.C.R.G. compounded annually. The claim for payment of 18% interest has not been made out because in this case also, a chargesheet was issued to the applicant though ultimately, he was exonerated of the charges.

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7. As regards commutation of pension, learned counsel for the applicant has relied simply on F.R. 5-A which enables any Ministry or Department of Government to relax the requirement of the rule to such an extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner and in that case also, the concurrence of Finance Ministry is required. For that purpose, I find that the applicant has nowhere stated that he had made any representation under F.R. 5-A for relaxation of Rules and he should not have approached this Tribunal directly without giving any representation. So the relief on that part cannot be claimed by the applicant. However, F.R. 5-A is of general nature. It has no application for relaxation with regard to commutation of pension as claimed by applicant.

8. In view of the above discussion, the O.A. is partly allowed. The respondents are directed to pay interest at the rate of 12% on the D.C.R.G. amount to be compounded annually with effect from the date of his retirement till the date of actual payment. As regards claim for commutation of pension with reference to the next date of birth following the date of retirement, the same is dismissed.

9. The above direction shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order. No costs.

Kuldeep
(KULDIP SINGH)
MEMBER(JUDL)

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