

Central Administrative Tribunal
Principal Bench

O.A. 993/99

New Delhi this the 5th day of October, 1999

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

1. Km. Asha,
D/o late Shri Tuhi Ram,
R/o WZ-527, Village Naraina,
New Delhi.
2. Vinay Kumar,
S/o late Shri Tuhi Ram,
R/o WZ-527, Village Naraina,
New Delhi. ... Applicants.

By Advocate Shri S.K. Gupta.

Versus

1. Union of India, through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Chief Controller of Defence Accounts (P),
Allahabad.
3. D.P.D.O. Brar Square,
Delhi Cantt,
Delhi.
4. Wing Commander,
Civilian (Admn.),
Sir Force Record Office (U),
Suburoto Park,
New Delhi-110 010. ... Respondents.

By Advocate Shri S.M. Arif with Shri S.K. Sharma,
Senior Auditor, Departmental Official.

O R D E R (Oral)

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

Heard both the learned counsel for the parties.

2. The applicants, who are children of late Shri Tuhi Ram, who was working as Sweeper w.e.f. 22.6.1953, have claimed family pension due to them on the death of their father while in service on 14.8.1994.

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3. This application was filed on 28.4.1999 claiming grant of family pension to the applicants under Rule 54 of the CCS (Pension) Rules, 1972 (hereinafter referred to as 'the Rules) together with interest @ 18% per annum on the arrears. Admittedly, the respondents have paid the family pension which was due to Applicant No. 1, who was minor at the time of death of the father in 1994, to her brother i.e. Applicant No. 2 vide their letters dated 13.7.1999 and 19.7.1999. Family pension has accordingly been paid to Applicant No. 2 in favour of Applicant No. 1 w.e.f. 15.8.1994 to 21.8.1996. Shri S.K. Gupta, learned counsel, has stated that thereafter the arrears of family pension due to Applicant No.1 from 22.8.1996 have been paid on 17.8.1999. In the circumstances, learned counsel for the applicants, has submitted that while the respondents have paid the family pension due to Applicant No. 1 from the date of death of her father, the same has been done belatedly for which the issue surviving in the O.A. is one of payment of interest.

4. Shri Mohd. Arif, learned counsel for the respondents, has submitted that Applicant No. 2, i.e. son of late Shri Tuhi Ram had submitted his application form for family pension on the death of his father. On queries, the respondents found that he was not eligible for pension because he was already married before the death of the father and Applicant No. 1 was a minor. He has also submitted that there was a lot of correspondence between the parties to ascertain the facts which took some time and, therefore, he has submitted that the claim for interest is not justified in the present case. He has further submitted that in any case the respondents are

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paying the family pension as due under the Rules to Applicant No.1, who alone is entitled for the same.

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5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties. It is seen from the reply filed by the respondents that Applicant No. 1 i.e. Km. Asha had submitted an application on 27.9.1996 praying for grant of family pension in her name to the respondents which thereafter was referred to the various authorities with a request to sanction the same in her name. It appears that the respondents finally granted the family pension after the sanction was obtained for Applicant No. 1 vide PPO No. C/AF/67/99 issued by the Chief Controller of Defence Accounts (Pension), Allahabad (Annexure R-6). This letter unfortunately does not bear any date except that on the top of the printed form the year 1999 appears which shows that this had been issued some time in 1999. From these facts, it is evident that the respondents have taken an inordinately long time to grant family pension in accordance with Rule 54 of the Rules to Applicant No. 1, who was entitled for the same after the death of her father on 14.8.1994.

6. The Supreme Court in a number of judgements has allowed interest on delayed payment of retiral benefits, including DCRG (See. **State of Kerala Vs. Padmanabhan Nair** (1985(1) SC 429), **Union of India Vs. Ujagar Lal** (1997(1) SLR 125). In **Padmanabhan Nair's** case (**supra**), the Supreme Court has stressed the need of the Government agencies to make prompt payment of the retirement dues to a Government servant immediately after

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his retirement wherein they have further observed that it would not be unreasonable to direct the respondents to pay penal interest on these dues at current market rate which would commence at the expiry of the two months from the date of retirement.

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7. In the present case, the delay in payment of the family pension to Applicant No. 1, which was due to her under the Rules appears to have been done by the respondents passing the files from one authority to another to ascertain the facts and take an appropriate decision in the matter. The length of time they have taken appears to be somewhat unreasonable considering that they have taken nearly four years to make the due payments. However, the fact that some confusion had also been created by Applicant No. 2 who submitted his claims, who was not entitled to family pension under the Rules, cannot also be over-looked, on which also the respondents seem to have undertaken an infructuous exercise which also took considerable time.

8. Taking into accounts the facts and circumstances of the case and the aforesaid decisions of the Supreme Court, the respondents are directed to pay 12% interest on the arrears of family pension paid to Applicant No. 1 w.e.f. 21.8.1996, as admittedly Applicant No. 2 had received the payments earlier. The amount of interest shall be paid to Applicant No. 1 within three months from the date of receipt of a copy of this order.

9. O.A. disposed of, as above. No order as to costs.



(Smt. Lakshmi Swaminathan)
Member(J)