

(V)

Central Administrative Tribunal  
Principal Bench

O.A. 1015/99

New Delhi this the 3<sup>rd</sup> day of July, 2000

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

Shri O.P. Batra,  
S/o Shri C.R. Batra,  
R/o Flat No. 121,  
New Surya Kiran Apartments,  
Plot No. 65, I.P. Extension,  
New Delhi.

... Applicant.

(In person)

Versus

1. Union of India through  
  
The Secretary,  
Ministry of External Affairs,  
South Block, New Delhi.
2. Administration Officer (Pen.)  
Ministry of External Affairs,  
New Delhi.

... Respondents.

(By Advocate Shri A.K. Bhardwaj)

O R D E R

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

The applicant is aggrieved by the orders passed by the respondents dated 5.1.1999 and 5.11.1998 rejecting his request for payment of interest on delayed payment of gratuity and residual GPF. He has also claimed compensation for the loss suffered by him and his family for the delay in issuance of the CGHS card.

2. The brief relevant facts of the case are that the applicant, who was posted as Personal Assistant/PS in the Embassy of India, Brussels from November, 1994, retired on superannuation on 31.10.1997 while serving there. He returned to India on 9.11.1997. According to him, as per the CCS (Pension) Rules, 1972 (hereinafter referred to as

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'Pension Rules'), he had completed the pension papers which were forwarded to the respondents on 12.5.1997 for taking necessary action regarding payment of retiral benefits. According to him, the respondents first issued a wrong sanction order regarding payment of gratuity and subsequently this was corrected on 17.3.1998 for the balance payment of gratuity. He has stated that the respondents have delayed in making payment of gratuity by five months, which was paid to him on 30.3.1998. Another part of the DCRG was received on 29.5.1998. He had made a representation on 22.6.1998 to the respondents to pay interest on the delayed payment of gratuity and other dues (Annexure-I). The applicant has submitted that the respondents have also delayed payment of GPF, which was partly paid on 11.12.1997 and the rest ~~of which~~<sup>is</sup> paid on 16.12.1998. He has also submitted that because of the delayed action taken by the respondents he started receiving his pension only from July, 1998, after eight months of his retirement, and he had to pay the enhanced amount for obtaining the CGHS card for himself and his family, resulting in a loss of Rs.5400/- as in the meantime, the amount was revised upwards to Rs.8400/- which became effective from May, 1998. He has also sought compensation of this amount.

3. The respondents in their reply have submitted that as the applicant was posted in the Embassy of India in Brussels, Belgium, at the time of his retirement, one of the terminal benefits admissible to him was facilities for TA/DA for him and his family for return journey to India along with his baggage. As the Embassy had incurred an expenditure on this account amounting to Rs.3,39,405/-, in

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terms of Rule 71 of the Pension Rules, the gratuity could not be released to him till the TA claims were settled. However, according to them, after considering the 'No Due Certificate' received till then, a part amount of gratuity as admissible to the applicant was released for payment on 17.3.1998. Shri A.K. Bhardwaj, learned counsel has submitted that the applicant had submitted his TA bill only on 22.4.1998 and thereafter the same was processed by the competent authority. A statement has been made in the counter affidavit that "A further amount of Rs.30,000/- out of the gratuity was released on 6.5.1998 which has been disputed by the applicant. The statement appears to be contrary to what has been stated in para 1 of the counter, wherein the part gratuity of Rs.21,500/- and not Rs.30,000/- was released on 6.5.1998 leaving a balance of Rs.8,500/-. The entire gratuity amount has been released to the applicant on 3.3.1999 after recovery of the Government dues amounting to Rs.8470/-. The main contention of Shri A.K. Bhardwaj, learned counsel is that no gratuity could have been released till he had submitted his TA bill in view of the TA advance pending against him. He has drawn my attention to the letter sent by the applicant to them dated 15.4.1998, in which he has stated that he is unable to submit the original of the air-tickets issued to him because he still has <sup>an</sup> unutilised portion of the sector between Delhi and Bombay. Learned counsel has, therefore, submitted that as the Indian Embassy had provided the air-tickets for the applicant and his family to travel from Europe to either Delhi or Bombay which has the same fare, he for his own convenience did not submit the TA bill, as he wanted to utilise the free air tickets from Delhi to Bombay. In the circumstances, learned counsel for the respondents has

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submitted that the applicant was not entitled for payment of gratuity because that amount could not have been released to the applicant till the Government dues are settled. He has also submitted that the delay in payment of gratuity, if any is not on account of administrative lapse but caused on account of the action of the applicant himself. He relies on the provisions of Rule 71 of the Pension Rules and has submitted that in the circumstances of the case, no interest is due to the applicant.

4. Learned counsel for the respondents has also submitted that the claim of the applicant for compensation with regard to the revision of amount pertaining to the CGHS card is also not maintainable. He has submitted that the applicant could get the CGHS card issued on the basis of 'Last Pay Certificate' or his 'Pension Payment Order' if he had wanted to, and he could have got the CGHS card issued much earlier but he chose to apply for the same much later when the rate had been revised. He relies on the Ministry of Health and Family Welfare letter dated 11.10.1989 (Annexure VIII).

5. The applicant has also been heard in reply and I have also seen the rejoinder filed by him.

6. I have carefully considered the pleadings and the submissions made by the applicant and the learned counsel for the respondents.

7. The main issue in this case is whether there has been any delay (as alleged by the applicant) in making the payment of gratuity and other retiral benefits to him which

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can be considered as an administrative lapse on account of the delay caused by the respondents or the same is attributable to the applicant. Rule 71(2) of the Pension Rules provides that the Government dues as ascertained and assessed by the Head of office which remains outstanding till the date of retirement of the Government servant is to be adjusted against the amount of the retirement gratuity becoming payable. In this case, it is noticed that the respondents have stated that the Embassy of India at Brussels, which was his last posting, had on his retirement from service, given him and his family the facilities for TA and DA for their return journey to India which amounted to Rs.3,39,205/-. This was by way of TA advance and the claim had to be settled in accordance with the Rules. Having regard to the provisions of Rule 71 of the Pension Rules, it cannot be held that the respondents are not entitled to adjust the Govt. dues against the retirement gratuity payable to the applicant. In this regard, the applicant was required to submit the original of the air tickets utilised by him and his family for his journey from Europe to Delhi. It is seen from his letter dated 15.4.1998 that he was only prepared to give the photo copy of the air tickets but not the original tickets because he wanted to utilise one sector, that is from Delhi to Bombay. However, in order to settle the Government dues for payment of the gratuity, the same can be done only in accordance with the relevant rules. From the above facts, it is seen that the applicant did not submit the TA claim bills in accordance with the rules promptly on his return to India, to enable the respondents to process the same. It is stated that the TA claim of the applicant was submitted only on 21.4.1998. In the circumstances of the case, the release of the gratuity in

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part on 17.3.1998, 6.5.1998 and the balance amount of Rs.30/- on 3.3.1999 cannot be held to be arbitrary or illegal or on account of administrative lapse only. It is relevant to note that during the arguments the applicant had submitted that he is not on the claim for interest on the last amount of Rs.30/- but on the amounts of gratuity paid earlier. Therefore, the claim of the applicant for payment of interest @ 18% on delayed payment of gratuity is untenable and is accordingly rejected.

8. Having regard to the provisions of the Ministry of Health and Family Welfare O.M. dated 11.10.1989, there is also no merit in the claim of the applicant for compensation for alleged loss with regard to the issue of the CGHS card. After the applicant retired from service w.e.f. 31.10.1997 and returned to India, he could have availed of the CGHS facilities in accordance with the Rules either on the basis of the last pay drawn or pension. In the facts and circumstances of the case, the delay, if any, in procurement of the CGHS card after the revision of the rates cannot be attributed to any lapse on the part of the respondents. Therefore, the claim for compensation for loss due to the delay in issuing the CGHS card is also rejected.

9. In the rejoinder, the applicant has submitted that some part of the GPF has not been refunded to him which he has claimed with interest. According to him, the calculation of the amount of GPF has been made erroneously by the respondents and some balance of GPF is due to him. This is a question of fact for the respondents to verify from the records, and make payments, if due.

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10. In the result, for the reasons given above, the claims of the applicant for interest on delayed payment of gratuity and compensation for loss with regard to the issue of CGHS card are rejected. With regard to his claim for the balance amount of GPF with interest, The applicant may make a self contained representation to the respondents within two weeks from the date of receipt of a copy of this order. On receipt of the representation, the respondents shall verify his claim for the balance amount of GPF amount together with interest, and if any amount is found payable, the same shall be paid to the applicant with interest within one month thereafter, in accordance with the relevant rules and instructions. No order as to costs.

  
(Smt. Lakshmi Swaminathan)  
Member(J)

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