

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO. 1839 of 1998

Date of Decision 5-5-1999

Shri Saluja Narain Kausur Applicant(s)

Ms. Biscaria proxy of Advocate for the Applicant(s)
Mr S. Biscaria

Versus

Chief of the Air Staff Respondent(s)
and other.

Shri Atk. Bhandwaj Advocate for the Respondent(s)

C O R A M: (Single/Division)

Hon'ble Shri R.K. AHOOJA, M (A)

Hon'ble Shri _____

1. Whether Reporters of local papers may be
allowed to see the Judgement?

Yes/No/

2. To be referred to the Reporter or not?

Yes/No

OR
(R.K. AHOOJA)
Member(A)

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Central Administrative Tribunal
Principal Bench

O.A.No.1839/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 5th day of May, 1999

Satya Narain Kaushik
s/o Har Narain Kaushik
r/o 2336 Gali Anar
Kinari Bazar
Delhi - 110 006.

... Applicant

(By Ms.Bisaria, proxy of Mr. S.Bisaria, ~~Advocate~~)

Vs.

1. Chief of the Air Staff
Vayu Bhawan
New Delhi.

2. Chief CDA (Pension)
Allahabad (UP).

.... Respondents

(By Shri A.K.Bhardwaj, Advocate)

O R D E R (Oral)

The applicant, who retired from 1.3.1997, is aggrieved that the respondents did not fix his initial pension correctly and instead reduced it by Rs.86/- per month and secondly that the revised pension fixed on account of the recommendations of the Fifth Pay Commission was paid to him after an undue delay.

2. The respondents in reply have stated that the pension papers of the applicant had been processed, in accordance with the standing instructions, six months prior to the date of retirement of the applicant. At that time the applicant was working on a lower post. However after the papers had been processed the applicant's promotion was ordered with retrospective effect on 15.10.1996 but pension calculated on the basis of his pay in the lower was promptly released on 3.3.1997, i.e., within two days after the date of superannuation of the applicant. The revised pension

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orders were issued on 1.10.1997 after the option of the applicant in favour of the revised pay scale and pension was received. His case was thus dealt with promptly and revised pension was released to him on 19.8.1998. In view of this position, the respondents submit that there was no delay on their part and on the contrary they had released pension and the retiral benefits of the applicant immediately after the date of his superannuation.

3. I have heard the counsel. Ms. Bisaria, learned proxy counsel for the applicant has cited the orders of this Tribunal in Leelawati Vs. Union of India & Others in which she submits in similar circumstances interest at 18% was allowed for the period for which the payment was delayed. I find however that the facts and circumstances of the present case are somewhat different. Admittedly, the pay of the applicant was revised after his promotion with retrospective effect on 15.10.1996. The fact that the respondents made the payment of the retiral benefits promptly and immediately, after the retirement of the applicant, shows that they had taken advance action as per standing instructions for preparation and calculation of the retiral benefits of the applicant. Soon after the retirement of the applicant, the Government accepted the recommendations of the Fifth Pay Commission. There has been a delay in payment to the applicant of about ten months after the announcement of the revised pay scales. However, as rightly pointed by the learned counsel for the respondents, the respondents had to first obtain option of the applicant in favour of the revised pay scales. Secondly the revision of pay scales as a result of the

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recommendations of the Pay Commission was a special measure and cannot be compared with the ordinary process of calculation of retiral benefits. Till the Government accepted the recommendations of the Pay Commission no right accrued to the applicant. There was no prescribed period regarding payment of the benefits arising out of the recommendations of the Pay Commission as exists in case of release of retiral benefits in the ordinary course. If there has been a delay of few months it has to be seen in the back ground of the special measure taken for refixing the pay scales and pensionary benefits of a very large number, running into lakhs, of Government servants.

4. The penal interest is to be imposed only if it can be shown that the delay involved is wilful. In the facts and circumstances of the case as detailed above, I do not consider that any wilful delay can be attributed to the applicant. I, therefore, find no ground to interfere. The OA is accordingly dismissed. No costs.

R.K. Ahuja
(R.K. Ahuja)
Member(A)

/rao/