

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2265 of 1998

New Delhi, this the 26th day of May, 1999

Hon'ble Mr. N. Sahu, Member(Admnv)

Shri D.D.Bajaj s/o Shri J.R.Bajaj, r/o  
B-I/339, Janakpuri New Delhi.

- APPLICANT

(By Advocate Shri H.C.Sharma)

Versus

1. Govt. of NCT Delhi through its  
Chief Secretary.

2. Director of Education Govt. of NCT  
Delhi Old Sectt. Shamnath Marg,  
Delhi.

3. Principal, Govt. Boys Senior  
Secondary School No.1, B Block,  
Janakpuri, New Delhi-58.

- RESPONDENTS

(By Advocate -None)

ORDER (O r a l)

By Mr. N.Sahu, Member(Admnv)

The prayer in this Original Application is now confined only to the salary for re-employment for the period from 1.2.1997 to 31.3.1997, as also the interest for the delayed payment of retirement benefits. The applicant retired on superannuation on 31.1.1997 from the post of Lecturer. Thereafter he was reemployed for a period of two months w.e.f. 1.2.1997 to 31.3.1997.

2. In the rejoinder filed by the applicant on 16.3.1999 it is stated as under -

"That the applicant admits that rest of the amount due and payable other than the salary for re-employment has been received by the applicant as per the calendar given below -

(a) Commuted value of pension Rs.1,94,709 1.1.1999  
(b) DCRG Rs. 87,862 1.1.1999  
(c) Leave encashment Rs. 12,515 12.1.1999  
(d) Arrears in cash Rs. 21,900 12.1.1999  
(1.1.96 to 31.1.97)  
(e) Bonus(4/96 to 1/97) Rs.2,016 12.1.1999"

*Handwritten signature*

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3. At the time of hearing there was no response from the respondents. No counsel appeared in spite of the opportunities given earlier and today. In the circumstances this case is disposed of on the basis of the pleadings on record.

4. According to para 4.5 of the counter the applicant is found to be remiss in not supplying the required certificate of pension, DA on pension and CCA on pension along with other allowances received by him from his Bank till date and for this reason the pay of reemployment could not be paid to him. With regard to the reasons for delay in paying the revised pay and allowances, consequent to the recommendations of the Fifth Pay Commission, it is stated that the calculation of arrears was started after the recommendations were notified as accepted by the Government. The applicant himself states in the Court that the Fifth Pay Commission recommendations were accepted by the Government on 30th September, 1997 and at best a three-month period can be allowed for calculation of the arrears. Beyond that it is submitted that the delay cannot be held to be reasonable.

5. The Hon'ble Supreme Court has held in a recent judgement in the case of Dr. Uma Agrawal Vs. State of U.P. & another, JT 1992 (2) SC 359 that interest has to be paid on delayed payment and for this purpose their Lordships relied on the earlier decision in the case of State of Kerala and others Vs. M. Padmanabhan Nair, (1985) 1 SCC 429. As per

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the rules and procedures laid down for updating the service record, calculation of pension and recovering dues, the process should begin in the case of a retired employee at least two years prior to his notified date of retirement so that the retiral benefits must be received by him on the date of his retirement. The Supreme Court was aware of the instructions on the subject as also the repeated directives of the Ministry of Personnel to the effect that every effort should be made to calculate and pay retirement benefits as far as possible on the date of retirement.

6. It is in view of the spirit of the above judgment we have to view the delay in the payment of arrears of the Fifth Pay Commission. The applicant is only aggrieved of the delay in the payment of Fifth Pay Commission's arrears. After September 1997, allowing three months time to the respondents to calculate the arrears, the period thereafter cannot be held to be explained properly. The applicant who was due to receive his just dues has been deprived of the same. He would have earned interest on the money if it had been paid promptly.

7. I accordingly direct that interest of 12% per annum on the amount of arrears of Fifth Pay Commission shall be paid to the applicant for the period from 1.1.1998 till the date of payment of arrears, within three months from the date of receipt of a copy of this order, on the lines of the Supreme Court decision in the case of O.P. Gupta Vs. Union of

India and others, 1987 (5) SLR (SC) 288 and the latest decision in the case of Dr. Uma Agrawal (supra).

8. I also direct that the two months pay for the re-employment period shall be paid within this time frame. I also order payment of interest @ 12% per annum on the arrears of salary from the date it is due to the date of payment.

9. The OA is disposed of with the above directions. No costs.

*Narasimhaiah*  
(N. Sahu)  
Member (Admnv)

rkv.