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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

D.A. No. 2379 of 1998 decided on 10.5.1999

Name of Applicant : Sh.Ram Charan Lal

By Advocate : Shri D.R.Gupta

Versus

Name of respondent/s Director of Printing & ann.

By Advocate : Shri Rajinder Nischal

Corum:

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

1. To be referred to the reporter - Yes/No

2. Whether to be circulated to the other Benches of the Tribunal. - No/Yes

N. Sahu
(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2379 of 1998

New Delhi, this the 10th day of May, 1999

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

Sh. Ram Charan Lal, S/o Sh. Summere
 Singh, R/o V-32, Bhagwat Gali No.1,
 Arvind Mohalla, Ghonda, Shahdara,
 Delhi-53

APPLICANT

(By Advocate Shri D.R.Gupta)

Versus

1. The Director of Printing, Ministry of Urban Affairs & Employment, Nirman Bhawan, 'B' Wing, New Delhi
2. The Manager, Govt. of India Press, Minto Road, New Delhi

RESPONDENTS

(By Advocate Shri Rajinder Nischal)

O R D E R

By Mr. N.Sahu, Member(Admnv)

The admitted facts are as under - The applicant retired from Government service on 31.12.1997 as Head Mechanic. A disciplinary case pending against him before his retirement was disposed of on 17.7.1998. The relevant portion of the order of the disciplinary authority dated 17.7.1998 is extracted hereunder -

"The undersigned being the Disciplinary Authority have gone through the case dispassionately and also the report of the Inquiry Officer wherein the charges levelled against Shri Ram Charan Lal have been proved. However, taking a lenient view I order that the charges levelled against Shri Ram Charan Lal be dropped. I also order that his suspension period be treated as on duty."

2. After the proceedings were dropped the applicant was paid his retiral benefits as under -

DCRG & commutation of pension on 1.9.98
 CGEGIS & leave encashment on 11.9.98

The due date of payment was 1.1.98 as the applicant retired on 31.12.1997.

3. The respondents state that these payments were made expeditiously within two months from the date of conclusion of the disciplinary proceedings. It is also contended that the acquittal was not honourable because the charges were held to be proved by the enquiry officer. The decision for dropping the charges was taken at the level of the Ministry. The respondents themselves admit that the charges were not grave enough to proceed under Rule 9 of the Central Civil Services (Pension) Rules (hereinafter referred to as "the Pension Rules"). They state that the proceedings were not unduly prolonged by the disciplinary authority. As soon as the Presidential order dropping the charges was conveyed the respondents made the payment.

4. The learned counsel for the applicant, however, submits that under Rule 68 of the Pension Rules the applicant became entitled to payment of interest at 12% compounded annually. The Government of India decision under Rule 68 ibid states that where payment of DCRG has been delayed beyond three months from the date of retirement interest applicable to GPF deposit namely 12% compounded annually will be paid to the retired Government servant. That apart in Govt. of India's decision no.3 below Rule 68 ibid (Swamy's Pension Compilation

Twelfth Edition) it is stated as under -

"In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped."

5. I have carefully considered the submissions. Even the learned counsel for the respondents did not seriously dispute that there was no justification for withholding leave encashment and CGEGIS. The charges against the applicant related to alleged misbehaviour with another workman. This did not involve any recovery of any amount. Therefore, there was no justification to withhold leave encashment. With regard to DCRG no doubt it can be withheld when disciplinary proceedings are pending but in view of the instructions of the Government quoted above, the moment the applicant is exonerated the gratuity falls due from the date following the date of retirement. The question to be decided is whether the dropping of the charges amounts to exoneration. I have no doubt in my mind that this amounts to exoneration. The exoneration was ordered by the highest executive authority, namely, the President of India. The enquiry officer may give his finding but the disciplinary authority disagreed with him and dropped

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the proceedings. This can only happen because the disciplinary authority was satisfied that the applicant did not deserve to be punished and it was a decision on merit. The dropping was not a case of benefit of doubt. It was a positive act of dropping on merits. I, therefore, hold that this is a case of exoneration. I, have already held above that there was absolutely no justification to withhold leave encashment and CGEGIS dues. In the circumstances the respondents are liable to pay interest from the date after the date of retirement. The disciplinary proceedings having been dropped shall be deemed not to exist and the applicant shall be deemed to have been deprived of his pensionary and retiral benefits from the date of his retirement.

6. With regard to payment of interest I do not agree that rate of 18% should be paid. It is not a case of administrative lapse. It is not a case of carelessness on the part of the Government. Under the circumstances I respectfully follow the decision of the Hon'ble Supreme Court in the case of O.P. Gupta Vs. Union of India and others, 1987 (5) SLR (SC) 288 and direct the respondents that interest at the rate of 12% (twelve percent) per annum for the delay of eight months in making payment of all the items of pensionary benefits mentioned at para 4.10 of the OA, namely, DCRG, leave encashment, CGEGIS dues and commutation of pension shall be paid to the applicant within a period of three months from the date of receipt of a copy of this order. DCRG of Rs.1,000/- retained shall also be simultaneously released unless

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the amount has not been adjusted against any outstanding Government dues. The OA is disposed of as above. No costs.

Kanemba
(N. Sahu)
Member (Admnv)

rkv.