

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2479 of 1998

New Delhi, this the 20th day of July, 1999

HON'BLE SHRI N. SAHU, MEMBER(A)

Shri Chander Shekhar
Office Supdt. Grade II (Retd.)
From Research & Development Organisation,
Defence Science Centre,
Metcalf House,
New Delhi (Min. of Defence, Govt. of India)
R/o Plot No. 23-24, Phase II
Shyam Vihar, Najafgarh,
New Delhi-110043.

-APPLICANT

(By Advocate: Shri K.P. Dohare)

Versus

Union of India - through:

1. Secretary,
Ministry of Defence,
Govt. of India, South Block,
New Delhi-110001

2. Secretary,
Ministry of Personnel & Public
Grievances, Deptt. of Pension
Govt. of India, North Block,
New Delhi-110001

3. Director
Research & Development Organisation
Defence Science Centre,
Metcalf House,
New Delhi-110054.

-RESPONDENTS

(By Advocate: Shri S.M. Arif)

O R D E R

By Hon'ble Shri N. Sahu, Member(A)

Heard both the learned counsel.

2. The applicant prays for interest at the rate of 24% per annum with effect from 1.11.97 till the date of payment of his pensionary benefits which is stated to be 27.11.98. The applicant worked as Office Superintendent Grade-II before his voluntary retirement from service on 31.10.97. In the normal course, he would

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have retired on 31.1.98 but he sought voluntary retirement as per FR 56(k) and Rule 48 of CCS(Pension) Rules, 1972 after giving three months notice. He furnished his pension papers on 31.10.97.

3. The respondents, after notice, stated that there was a request from the applicant to prepare his pension papers after the implementation of the Fifth Pay Commission recommendations. It is stated that the respondents had already prepared his pension papers on the scale of pay as prevalent before the Fifth Pay Commission and these were verified and returned but the applicant requested by his letter dated 22.7.97 that his case be submitted to the CDA(P), Allahabad on revised scale of pay as per new scales. Accordingly it is submitted that this took time.

4. In his rejoinder, the applicant submits that the Fifth Pay Commission recommendations were accepted on 1.8.97. Arrears were paid in October, 1997. His allegation is that the respondents started taking action on his pension papers only after getting notice from the Tribunal. He was paid Rs. 32,617/- as arrears of pension on 28.1.99 and Rs. 2,64,844/- on 2.2.99. He should have been paid these amounts on 1.11.97. According to him, the respondents delayed the payment of ~~Rs. 1,97,461/-~~ ^{Rs. 2,97,461/-} (X) by a period of one year and three months. He relied on the following decisions:-

(i) D.S. Nakara vs. Union of India, AIR 1983

SC 130

(X) Corrected vide Court's
order dated 19.8.99

(ii) State of Kerala & ors. vs.

M. Padmanabhan Nair & ors., 1985(1) SCC 429

(iii) R. Kapur vs Union of India, JT 1994 (6)

SC 354

Shri Dohare also relied on a decision of this Tribunal in the case of K. P. Dohare vs. Union of India in O.A.1291/91 decided on 4.9.92.

5. The fact remains that the Fifth Pay Commission recommendations were accepted on 1.8.97 and arrears of pay were paid in October, 1997 to the applicant himself. The respondents ought to have processed his pension papers within three months from the date of fixation of his basic pay and D.A. in accordance with Fifth Pay Commission recommendations. They should have paid his retiral benefits at least by 1.1.98 because verification of qualifying service under Rule 32 of CCS (Pension) Rules and preparation of pension papers in Form No.7 should have started two years before the date of retirement on which a Govt. servant is due to retire on superannuation or on date he proceeds on leave preparatory to retirement.


6. In the applicant's case, if everything was ready, the only material input was revised pay as per the 5th Pay Commission's report on the last month of voluntary retirement. This would not take more than a couple of weeks' time. Even so I allow three months time to the respondents as the time needed for processing on the basis of the pay fixed in October, 1997 for calculating his pension, gratuity, leave encashment etc..

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The delay after this period has not been explained and cannot be condoned following the law laid down by the Hon'ble Supreme Court in the latest decision in the case of Dr. Uma Agrawal vs. State of U.P. & anr., JT 1999(2) S.C. 359.

7. I direct the respondents to calculate and pay interest to the applicant at the rate of 15% per annum from 1.1.98 on the retirement dues including pension and gratuity, till the date of payment of the same within a period of ^{twelve}~~six~~ weeks from the date of receipt of a copy of this order.

8. The O.A. is disposed of as above. No costs.


(N. SAHU)
MEMBER(A)

/dinesh/