

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 825 of 1995

New Delhi, this the 29th day of May, 1997

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

Shri Bisweswar Halдар, S/o late Shri B.B. Halдар,  
R/o A-45, I.N.A. Colony, New Delhi-110 023 -Applicant  
(By Advocate: Shri B.B. Raval)

Versus

Union of India through

1. The Secretary, Ministry of Home Affairs,  
North Block, New Delhi-110 001
2. The Assistant Settlement Commissioner,  
Ministry of Home Affairs, (Rehabilitation  
Division), Settlement Wing, Jaisalmer  
House, Man Singh Road, New Delhi-110 011 -Respondents  
(By Advocate : Shri N.S. Mehta)

O R D E R (Oral)

Hon'ble Mr. N. Sahu, Member (A)-

This application has been filed for a direction to the respondents to pay balance amount in the provident fund and also to pay 18% interest on pensionary benefits.

2. The applicant joined the National Airport Authority (in short NAA) on 12.3.1988. NAA is an autonomous body. Prorate monthly pension was sanctioned to the applicant for the service rendered by him in Dandkaranya Project by sanction order dated 26.5.1991. As NAA was an autonomous body the applicant was treated as a fresh appointee. On his representation a lump sum amount in lieu of pension was sanctioned to him vide order dated 21.4.1992. This lump sum amount was Rs.91,100/-. Actually, this amount was paid to him on 22.3.1994. It is conceded by the learned counsel for the respondents, Shri N.S. Mehta that interest is payable to the applicant but the period should be from 21.4.1992 to 22.3.1994 on a sum of Rs.91,100/-.

3. The learned counsel for the applicant, Shri Raval argues that by order dated 21.4.1992 (Annexure-A-9) the applicant was granted permanent absorption with effect

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from 12.9.1988 (Forenoon). Consequently, with this order the applicant has to be paid all pensionary benefits from that date. The learned counsel for the applicant further submits that the applicant's deprivation of the amount, which was legally due to him was from 12.9.1988 and, therefore, even allowing a grace period of six months for processing the claim in accordance with the rules and procedure, interest should have been calculated and paid with effect from 1.4.1989.

4. The learned counsel for the respondents submit that when the applicant joined NAA on 12.9.1988 it was not regularised as an autonomous body. The question of the alternative option of lump sum amount of pension arose only after 2.10.1989 when it was declared as an autonomous body.

5. Annexure-A-7 is the order of permanent absorption dated 26.9.1991. In fact, the applicant had requested for full commutation of pension vide Annexure-A-8 dated 24.12.1991. It was in response to this letter that on 21.4.1992 full commutation was ordered subject to medical examination. It is the contention of the learned counsel for the applicant that the permanent absorption took place with effect from 12.9.1988 and, therefore, the applicant has a right to receive pension and all other pensionary benefits from that date but what is to be dealt with in this D.A. is payment of interest. Interest is payable on deprivation of an amount that is legally due. Now I have to see whether there was such a deprivation from 12.9.1988. It appears to me that the applicant was not deprived of his claim of retiral benefits from 12.9.1988, as stated above. The respondents could not have considered payment of commutation without Annexure-A-7 dated 26.9.1991 which is on record. That was the order which conveyed the sanction of the President with effect from 12.9.1988 authorising permanent absorption in NAA of the applicant. Without this

order of permanent absorption no authority would have taken a decision either on pension or on commutation. As such the starting point for reckoning delay would only be from 26.9.1991. Thereafter, vide Annexure-A-8 dated 24.12.1991 the applicant had for the first time communicated that like others he should be allowed to draw full commutation of pension. The pension would not have been computed before this option was given to the Government by the applicant. Therefore, it is to be seen whether there was any delay after 24.12.1991. In the background of the facts and circumstances of the case I would hold that there is no justification for any delay from 1.1.1992. Accordingly, the respondents are directed to calculate and pay interest at the rate of 12% per annum on an amount of Rs.91,100/- for the period from 1.1.1992 to 22.3.1994, within a period of two months from the date of receipt of a copy of this order.

6. The respondents shall further pay interest for the period 12.9.1988 to 20.7.1995 on a sum of Rs.1209/- of G.P.F. account which was not paid to the applicant. Any deprivation of this amount even for a day without any proper reason cannot be considered as valid. Interest shall be paid at the rate of 12% per annum for the above period, within a period of two months from the date of receipt of a copy of this order.

7. In the result, the Original Application is partly allowed with the directions as contained in paragraphs 5 & 6 above. The parties shall bear their own costs.

Narasimhaswamy  
(N. Sahu) 29/5/97  
Member (A)