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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

O.A. No.906 of 1995

New Delhi, this the 6th day of August, 1997.

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

Shri Rameshwar Dutt Sharma
S/o Sh. Shambhu Dayal
W-35, Basai Dara Pur,
New Delhi - 110 015

...Applicant

(By Advocate : Shri G.K. Srivastava)

Versus

1. Lt.Governor, Delhi
Delhi Administration,
Govt. of N.C.T.,
Delhi

2. Director of Education,
Delhi Administration(NCT)
Old Secretariat
Delhi

...Respondents

(By Advocate : None)

ORDER (Oral)

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

Heard Shri G.K. Srivastava, learned counsel for
the applicant.

2. The prayer in the amended OA filed on 05.07.1995
is as under:

"8. In view of the above facts and ground in para 5
above the applicant most respectfully prays that
the respondents may kindly be ordered to pay to
the petition/applicant the amount of Rs.2,38,950/-
and 22,145/- as interest on the delayed payment
on arrears of pension and gratuity.

Arrears
In case this hon'ble Tribunal does not consider
fit to grant interest from the date on which the
imposing of penalty was made retrospectively effective
i.e. 2.3.85 to pay the interest to the applicant on
the entire amount of arrears of pension and gratuity
w.e.f. 18.5.92 i.e. on the expiry of 3 months from
the date of submission of the application for

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modifying the penalty, the applicant may kindly be granted alternatively the interest atleast w.e.f. 1.7.92 i.e. w.e.f. the date of order of modification of the penalty passed by the respondents themselves."

3. On 1.7.92 the competent authority modified the earlier order of dismissal into compulsory retirement. There is absolutely no justification to claim interest for non-payment of pension and gratuity till 1.7.92 because a person dismissed from service has no right to claim retiral benefits like pension and gratuity. He can, of course, get back his GPF, leave encashment etc. The contention of the applicant is that even after the order of compulsory retirement on 1.7.92 there was considerable delay in the payment of gratuity and pension. Gratuity was paid on 18.2.94 and arrears of pension were paid on 4.9.94. The applicant, it is stated, had filled up the forms for pension and gratuity on being supplied to him at his request from the Rohtak Jail on 21.9.92. Thereafter, by a communication dated 22.01.1993 the applicant was informed that certain objections were raised by the Pay & Accounts Officer to the effect that before making a final payment of the retiral benefits in a case of this type, the approval of the Finance Secretary was required. Thereafter, the applicant sent several reminders on 11.3.93, 9.7.93, 12.8.93 and 22.9.93. The arrears of pension and gratuity were paid thereafter on the dates mentioned above.

4. A counter affidavit was filed on 8.4.96. It has not given any reasons for the delay. It simply mentions that the order of dismissal was re-considered and modified into compulsory retirement w.e.f. 2.3.85. Gratuity and pension were released after fixation. Reasons for delay were not mentioned in the counter affidavit. Learned counsel Ms. Jyotsana Kaushik was appearing on behalf of the respondents earlier. After some time, she mentioned that

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she returned the brief and no other counsel has substituted for her. Fresh notices were issued by an order of this court on 6.6.97. There was no response on 5.8.97 and today also nobody has appeared on behalf of the respondents. Under the circumstances, no useful purpose would be served as the respondents apparently have lost all interest in pursuing this matter. No useful purpose will be served ^{/by} further giving any opportunity to them. On the basis of material on record and after hearing learned counsel for the applicant, I dispose of the OA as under.

5. This is not a conventional case of retirement. This is a case where the applicant was serving a sentence as a life convict and a case where the punishment of dismissal was mutated to compulsory retirement; even so, the delay has not been explained. If we start reckoning the delay from the date the applicant submitted forms duly filled-up from Rohtak Jail on 21.01.1992, even if we take into account the objections raised that the papers required the approval of the Finance Secretary, delay of such a long period has not been explained at all. It is settled law that pension or gratuity are not claims to be settled at the discretion of the competent authority as a bounty but they are rights in property and, therefore, undue delay in disposing of the rightful claims has to be compensated by way of interest. The Apex Court has already held that interest is payable on amounts which are legally due to a person and which has not been paid to him within a reasonable period of time. It is true that the statute itself prescribes a rate of interest for payment of gratuity for delay and there is no such prescription for pension;

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even so, when an amount that is legally due is not paid and no reasons are forthcoming for the delay, even for arrears of pension, the interest is payable.

6. After going through the records and also considering the nature of the case, I direct the respondents to pay to the applicant, interest at the rate of 12% from 1.7.93 to 18.2.94 with regard to gratuity and from 1.7.93 to 4.9.94 on the arrears of pension within a period of eight weeks from the date of receipt of a copy of this order.

7. OA is disposed of as above. No costs.

Narayan Sahu
(N. Sahu)
Member (A)

/Kant/