

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1157/96

New Delhi this the 9th day of December 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

R.P.Gupta
S/o Late Shri Babu Ram
21-C, DDA Flat, Masjid Moth
New Delhi - 110 048

...Applicant

(In person)

Versus

Union of India through

1. Secretary
Ministry of Water Resources
Shram Shakti Bhawan
Rafi Marg
New Delhi-110 001.

2. Chairman
Central Water Commission
Sewa Bhawan, R.K.Puram
New Delhi-110 066.

...Respondents

(By Advocate: Shri S.M.Arif)

O R D E R (oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This application is directed against order dated 22.3.96 by which applicant's claim for interest on delayed payment consequent on initial wrong fixation and subsequent re-fixation of his pay on his promotion to junior administrative grade w.e.f. 3.1.1981. The facts which led to the filing of this application can be briefly stated as follows:

2. The applicant was promoted on ad-hoc basis on 3.1.81. His pay was fixed under FR 22 (a) (i) as per the prevalent instructions. The Government of India issued instructions in OM dated 5.10.81 by which the fixation of pay on promotion or appointment from senior scale to junior

administrative grade was also brought under FR 22(c). The applicant's ad-hoc promotion was regularised in 1983. In the meantime, one Shri B.L.Gupta, junior to the applicant, was initially promoted on ad-hoc basis w.e.f. 19.1.82 and was regularised w.e.f. 7.2.83. His pay was fixed under FR 22 (c). The applicant, finding that his pay fell lower than the pay of Shri B.L. Gupta, represented for parity of his pay with that of his junior by stepping up his pay. This representation was eventually rejected by order dated 11.7.89. Assailing that order, the applicant approached the Tribunal in OA 1282/90 after his retirement. The Tribunal dismissed his application. However, the applicant approached Supreme Court by filing an SLP 8998/95. The Hon'ble Supreme Court found that there was no good reason for not giving the applicant the scale of Rs. 1500-~~2000~~ and, therefore, directed the respondents to give the scale of Rs. 1500-~~2000~~ to the applicant w.e.f. 5.10.81 as that being the date on which the OM referred to in the OA came into force. Pursuant to the judgement of the Supreme Court, the applicant was given the pay scale w.e.f. the relevant date. He was given arrears of pay and allowances and his pensionary benefits were also fixed. Finding that though the pay and pensionary benefits of the applicant were revised pursuant to the directions of the Hon'ble Supreme Court, the applicant was not given the interest on the delayed payment, the applicant made a representation. The impugned order is answer to this representation telling the applicant that the question of payment of interest on the amount paid to him consequent upon re-fixation of his pay was not covered by the order of the Supreme Court.

3. The applicant has now filed this application assailing this order and praying for a direction to the

respondents to pay to him interest at the current market rate as the delay on their part to fix his pay properly was culpable. The applicant has also relied on a ruling of the Hon'ble Supreme Court in State of Kerala V. Padmanabhan Nair.

4. Respondents in their reply have stated that there was no delay in re-fixing the pay of the applicant as the respondents have faithfully implemented the order of the Supreme Court. The fixation of the pay of the applicant at the first instance ^{was} on an interpretation of the rules ^{as} then stood and, therefore, there was no culpability in the action on the part of the respondents and, therefore, payment of interest is not called for, contend the respondents.

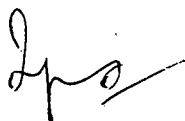
5. We have heard the applicant who is present in person and Shri S.M.Arif, counsel for respondents. The applicant with considerable tenacity argued that the respondents should have properly interpreted the OM dated 5.10.81 and if that was done his pay would have been fixed at Rs. 1500-~~2000~~ w.e.f. 5.10.81 and not doing this itself is culpable. He also invited our attention to a copy of a representation made by him on 27th July 1982 claiming higher fixation of pay. Therefore, the applicant stressed that the action on the part of the respondents in not taking into account the true spirit of the OM dated 5.10.81 when fixing his pay being culpable, respondents cannot escape from their obligation to pay interest to him. On a careful scrutiny of the pleadings and giving our anxious thought to the circumstances brought out, we are of the considered view that it is not possible to brand the wrong fixation of the pay of the applicant as culpable. The respondents interpreted the rules

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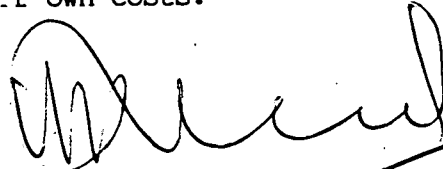
according to their wisdom. The Tribunal dismissed the OA at the first instance, but it was only ultimately the Supreme Court which said that there was no good reason for not giving the applicant the particular scale w.e.f. 5.10.81 the date on which the OM was issued. Therefore, going by the order of the Hon'ble Supreme Court, it can only be held that there was no good reason for not giving the applicant the pay scale of Rs.

Rs. 1500-2000 w.e.f. 5.10.81 but it is not possible to hold that not doing so was culpable.

6. Under the circumstances, we are not in a position to accede to the claim of the applicant to direct the respondents to pay interest on the delayed payment. The result is that the application falls and, therefore, the same is dismissed leaving the parties to bear their own costs.



(K. Muthukumar)
Member (A)



(A.V. Haridasan)
Vice Chairman (J)

as.