

Central Administrative Tribunal, Principal Bench

O.A.No.1463/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 8th day of April, 1997

Jagdish Chander
ACTO-II(G) Retired
House No.27-A
Shyam Nagar
Gali No.2
Trans Yamuna
Delhi - 110 051.

... Applicant

(By Shri Hori Lal, Advocate)

Vs.

1. The Secretary
Intelligence Bureau
(Ministry of Home Affairs)
Govt. of India
New Delhi.
 2. The Pay & Accounts Officer
Intelligence Bureau
Ministry of Home Affairs
A.G.C.R. Building
New Delhi.
 3. The Chief Secretary
Govt. of National Capital Territory of Delhi
Old Secretariat
Delhi.
 4. The Pay & Accounts Officer
Office of the DCA (GPF Cell)
Delhi Administration
Old Secretariat
Delhi - 110 054.
- Respondents

(By Shri V.S.R.Krishna, Advocate on behalf of UOI
and Shri Jog Singh, Advocate on behalf of other
respondents.)

O R D E R (Oral)

This is a second round of litigation. The applicant who served with the Delhi Police initially proceeded on deputation to Intelligence Bureau (IB) in 1978 where he was absorbed in 1988. On absorption, he was also allotted fresh GPF Account number in the IB. The applicant retired on 30.9.1991. Thereafter, he made representations to get his GPF transferred from Delhi Police to IB so that he could get his retiral benefits. It appears that the IB could not get the matter sorted out

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with the Delhi Administration. On the other hand, the applicant refused part payment of GPF. He then filed an Original Application No. 2544/94 impleading Union of India, through its Secretary, Ministry of Home Affairs; Director, IB and the CCA, PAO, IB as respondents. When the matter came up for disposal, the payment of outstanding dues of GPF were made, and accepted by the applicant, but the request for payment of penal interest at 18% was refused on the ground that the delay occurred on account of the Delhi Administration, which had not been impleaded as a necessary party, no such relief could be granted. The applicant has now, through this fresh OA, in which he has also impleaded the Chief Secretary, NCT of Delhi, sought payment of interest on the delayed payments of GPF.

2. The respondents in their reply have raised the objection that the matter had already been agitated in the earlier OA and no reliefs were given regarding payment of penal interest, the present application is barred by a res-judicate.

3. I have heard the counsel on both sides. The learned counsel for the applicant submits that the bar of res-judicate does not arise in this case since the reliefs had been refused on the technical ground of non-impleadment of necessary party; hence the option remains with him to agitate the matter afresh by impleading the necessary party. In support of his contention, he cited a Judgment, 1973 (2) SCC 327 wherein it was held that a decision in a litigation between parties A & B will not operate as res-judicate in subsequent litigation between A & C or between B & C.

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4. I have considered the matter carefully. It is correct that the Delhi Administration had not been impleaded in the previous OA and on that account the claim of the applicant against Delhi Administration remains to be decided. I do not therefore find that the present application is barred by res-judicata under Section 11 of the CAT (Procedure) Rules. However, on the merits of the case, I do not find that the relief sought for by the applicant is justified.

5. The applicant has retired on 30.9.1991. He pursued the matter with the IB which was his last employer. The IB took up the matter with the Delhi Administration. As has been noted in the earlier order in OA No.2544/94 the applicant himself had not made any efforts with the Delhi Administration to pursue the matter and get his GPF transferred to his new Department. The delay which occurred is attributed to the circumstances of the case in which the applicant sought deputation to IB and later got absorption in that organisation. The applicant admits that the payment of GPF was made to him ultimately in 1995, during the earlier proceedings, before the Tribunal carrying also the normal rate of interest plus principle amount of GPF. In these circumstances, since he got the payment and interest thereon, his claim for obtaining penal interest at this stage would be barred by limitation/laches. He did not pursue the remedy at the appropriate time and with the appropriate party. However, the ~~omission~~ omission to agitate the matter without joining the necessary party does not absolve him of his responsibility to pursue the matter in time with the proper party.

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6. In view of the circumstances of the case, I find no merit in this OA and the same is dismissed. No costs.

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R. K. Ahuja
(R. K. AHUJA)
MEMBER (A)

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