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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER(A)

O.A. NO.1883/1996

NEW DELHI, THIS 11TH DAY OF APRIL, 1997

SHRI J.P. GUPTA
S/o lt. Sh. Babu Lal
R/o B-27 Sarwati Bhawan
Golden Park
Shiv Puri
DELHI-51

..APPLICANT

(By Advocate - Shri S.K. Jain)

VERSUS

UNION OF INDIA, through

1. The Secretary to the GOI
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi
2. Director General of Works
CPWD
Nirman Bhawan
New Delhi
3. Executive Engineer (Elect.)
CPWD
Air Conditioning Division No.1
Vidyut Bhawan
Shankar Market
Connaught Place
NEW DELHI

..RESPONDENTS

(By Advocate - Shri B. Lall)

ORDER

The applicant is aggrieved by order dated 29.11.95 (A-1) whereby his representation for payment of interest on delayed payment of pension and DCRG w.e.f. 5.5.87 has been rejected.

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2. The case of the applicant is that while working as Assistant Engineer (Electrical) under the D.G., CPWD, he went on deputation to the Standing Conference of Public Enterprises (SCOPE), New Delhi, in 1984, for a period of one year in the first instance. The SCOPE is neither a Central autonomous body of the Government nor a Government Undertaking. The applicant says that on completion of 20 years qualifying service, he applied for voluntary retirement in 1987 but received neither acceptance nor refusal; although the retirement is deemed to have taken place after expiry of three months notice as per rule 48-A of CCS (Pension) Rules. The applicant further states that since he continued to receive intimation of his annual increments, he presumed that his request for voluntary retirement had not been accepted and he was continued to be treated as on deputation with SCOPE. Respondent No.2 also asked for his repatriation but he was not relieved by the borrowing organisation. A fresh notice was given by the applicant on 15.6.90 for seeking voluntary retirement. However, SCOPE was informed that on 8.8.90, the applicant was deemed to have been absorbed in SCOPE w.e.f. 21.10.85 whereupon he filed a representation explaining the legal status of SCOPE due to which he could not be so deemed to be absorbed permanently. During all this period, his leave salary and pension contribution were being given to respondent No.2 by SCOPE. Ultimately, the respondents after more than one and a half years, vide their order dated 4.2.94, permitted the voluntary retirement of the applicant w.e.f. 5.5.87, that is, from the date of expiry of three months from the original notice given by him on 4.2.87. The applicant submits that it was done arbitrarily and unilaterally and his voluntary retirement should have been accepted from 31.12.90, i.e., from the expiry of three

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months from the second notice and not the first notice. In any case, the applicant demanded payment of his retiral benefits with interest w.e.f. 5.5.87 through his various letters. The final payment of GPF balance was made on 27.1.95 with interest allowed only upto 30.9.94. Payment of gratuity was made on 30.5.95. Pension from 1.1.95 without arrears from 5.5.87 to 31.12.94 was ordered on 30.5.95 and his encashment of leave salary of EL from 13.5.94^{an?} CCEIGS on 5.8.94. He claims that he is entitled to arrears of pension amounting to Rs.1.16 lakh, GPF credit of Rs.8,000/-, CGEIS Rs.3034/- and interest on all the late payments. The applicant now prays for a direction quashing the letter dated 29.11.95 (A-1) whereby he has been informed that his request for payment of interest cannot be acceded to, to direct respondents to release pending/unpaid payments with 18% interest from 5.5.87 and pay interest on those already released.

3. The respondents in reply state that payments of CGEGIS has been made on 4.10.96, encashment of leave on 13.5.94, GPF with interest upto 30.9.94 on 27.1.95 and DCRG on 8.8.95. A cheque for arrears of pension from 5.5.87 to 31.12.94 has also been sent on 29.11.96. They deny that there are any missing credits. The respondents state that the voluntary retirement of the applicant was accepted only by order dated 4.2.94 and only thereafter the pension papers could be prepared. Any delay which took place was because of the procedures requiring scrutiny of the claims since the applicant was working with SCOPE. They deny the claim of payment of interest from 5.5.87 on the ground that the applicant had proceeded on deputation of one year but was not repatriated on expiry of the deputation period nor a request for extension of his deputation was received. They deny that the original copy of the notice dated 5.5.87 was

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ever received and only a photo copy was sent by the applicant with his notice of 1990. Since the applicant had not returned from deputation, it was assumed that he had been permanently absorbed in SCOPE. The second letter of notice was also not forwarded through proper channel. They point out that the applicant did not pursue either his first notice or the second one. In the light of this factual position, they state that the applicant is not entitled to any interest from the date of his voluntary retirement.

4. I have heard the counsel on both sides. The ld. counsel for the applicant relying on the decision of this Tribunal in DR. B.B. RAJPUROHIT VS. UOI AISLJ 1994(2) CAT 207 states that the notice of voluntary retirement if not refused or withdrawn becomes absolute on expiry of three months. This being so, he became entitled to retirement benefits immediately on expiry of three months from the date of notice. Alternatively, as per the decision in H. RAMAKRISHNA IYER VS. UOI 1990 (14) ATC 574 if there is inordinate delay in taking a decision on the notice for retirement, then the employee has to be treated as on duty with consequential monetary benefits for the intervening period. He also cited various other cases to support his contention that if there is delay in payment of retirement dues, then the employer is liable to pay interest thereon for the period of delay. The ld. counsel for the respondents, on the other hand submitted that the applicant had gone on deputation to SCOPE and despite expiry of deputation period did not come back even though the department had asked for his repatriation. In these circumstances, the question of accepting his voluntary retirement had to be examined in the context of government instructions regarding employees proceeding on deputation to PSUs and other autonomous organisations. In any case, his original notice was not received

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and it was only after a photocopy was produced by him and considering the fact that he had not reverted back despite lapse of five years after expiry of the initial deputation period, that it was decided to accept his voluntary retirement from back date.

5. I have carefully considered the pleadings on record and the rival arguments advanced before me by the ld. counsel on both sides. The applicant on one hand states that the order accepting his voluntary retirement from 1987 is wrong since he was informed of annual increments in the parent office and leave and pension contribution were being sent. On the other hand, he says that he is entitled to interest on late payment from 1987 onwards. The applicant has no claim for any interest till the date of issue of order in 1994. In case he was not satisfied with the acceptance of his notice for voluntary retirement in 1987, he should have sought his relief at that stage. Again when he gave his second notice in 1990, he did not seek his remedy from the court. The government ultimately accepted his voluntary retirement with back effect. Obviously, his pension papers etc. could not have been initiated till the order of voluntary retirement was issued. There are standing instructions that interest is liable to be paid on delayed payment of retiral benefits from a date ~~starting~~^{from} after the date of retirement. Rule 68 of CCS Pension Rules provides that if payment of gratuity has been authorised later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time, provided that the delay was not on account of failure on the part of the government servant to comply with the

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procedure laid down for processing his pension papers. As per Government instructions quoted in Swamy's compilation of CCS (Pension) Rules (1993 Edition), 7% interest is payable beyond three months and upto one year and 10% thereafter. The respondents have nowhere shown that there was any delay on the part of the applicant. Accordingly, in the ratio of the Supreme Court judgement in R.KAPOOR VS. DIE. OF INSPECTION JT 1994(6) SC 354, the applicant is entitled to receive interest on delayed payments.

6; It is also significant that this O.A. has been filed on 2.9.96. The relief which is to be afforded to the applicant has also to be moulded in terms of the time frame in which he has approached this Tribunal. I therefore partly allow this O.A. with a direction that the respondents will pay 18% interest on all retirement dues paid after 2nd September 1995, i.e., one year prior to the date of filing of the O.A., from that date till the date of actual payment. The O.A. is disposed of accordingly. No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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