

5

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 12 of 1997

New Delhi, this the 28th day of August, 1997

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

R.K. Seewal, Ex-Workshop Supdt.,
Directorate of Technical Education,
Delhi Administration, Delhi, presently
Senior Regional Manager, Food Corpo-
ration of India, Regional Office,
17-Parbhat Kiran Bldg., Rajendra
Place, New Delhi - 110 008
(By Advocate - self)

-APPLICANT

Versus

1. Lt. Governor, Raj Niwas, NCT,
Delhi-110 054
2. Chief Secretary, Sham Nath Marg,
Delhi-110 054
3. Director/Secretary, Directorate of
Technical Education, Vikas Bhavan,
New Delhi-110 003
4. Principal, Pusa Polytechnic, Pusa,
New Delhi-110 012

-RESPONDENTS

(By Advocate - Shri S.K. Gupta proxy for Shri BS Gupta)

J U D G M E N T

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

The reliefs claimed by the applicant at
para 8 of the Original Application are as under -

"8. Reliefs sought

In view of the facts mentioned in paras
4-6 above, the applicant most respectfully
prays for this Hon'ble Tribunal may be
pleased to direct the respondents for
the following:-

- 8 (i) To release amount of leave encashment
for 161 days earned leave in compliance
to the orders of this Hon'ble Tribunal in
OA No. 1376/88 referred to above alongwith
interest @ 24% per annum from the date of
the payment when it was due i.e. 11.11.1980
till the date of actual payment.
- 8 (ii) To make payments of the balance amount
of Rs. 650/- still outstanding in GPF A/c
No. SCH/CR/9477 alongwith the interest @
24% per annum.
- 8 (iii) To grant interest on the amount of
lump sum payment of balance monthly

Contd.....2/-

6

pension after commutation payable from 11.11.80 till its date of actual payment @ 24% per annum.

8(iv) To grant interest @ 24% per annum on the amount of gratuity amount of Rs.8156/- from 11.11.80 till its payment in March, 1996.

8(v) To grant payment of arrears of salary on refixation of basic pay after crossing Efficiency Bar and interest @ 24% per annum from the date of the amount due to till the date of its payment.

8(vi) To grant interest @ 24% per annum for the delayed payment of 1/3rd commutation of pension amount of Rs.16,654/- with effect from 11.11.80 till its payment in March, 1996.

8(vii) Cost to the present applications."

2. The brief background of this case is that the applicant joined the Delhi Administration on 3.8.1966 and worked there under the Directorate of Technical Education till 10.11.1980. He joined the Food Corporation of India, by obtaining necessary no objection from the earlier department, on the post of Deputy Manager (General) on 10.11.1980 and was confirmed in that appointment in November, 1981. He claimed terminal benefits after being finally absorbed in the Food Corporation of India for the services rendered in the Delhi Administration for a period of 14 years. His request was rejected. He claimed this pro rata benefit before this Tribunal in O.A.1376/88. By an order dated 12.11.1993 the Tribunal directed as under-

"8. ...the present application is allowed and the respondents are directed that he should be granted pro-rata pension as per the C.C.S. (Pension) Rules, 1972 for the period he has continuously worked in the Delhi Admn. w.e.f. 3.8.1966 to 10.11.980 and further he is also entitled to gratuity under the aforesaid pension rules for the period he has worked as said above. He is also entitled to leave encashment under the C.C.S. (Leave) Rules, 1972 for the earned leave accumulated by him for the aforesaid period upto the maximum limit. He is also entitled to the

Contd.....3/-

amount of G.P.F. lying in balance, if not paid already, along with interest under the rules. However, the claim for interest on the other relief granted is disallowed. Parties to bear their own costs."

2. The respondents paid the terminal benefits in the following manner-

Sl. No.	Nature of Benefit	Amount	Date of Payment
1.	D.C.R.G.	Rs. 8156	27.2.1996
2.	Commutation	Rs. 16654	27.2.96
3.	Leave encashment	Rs. 7633	10.3.97
4.	GPF	Rs. 34413	21.11.94

(sent directly by GPF Cell to CPF A/c in F.C.I.) "

The applicant claims interest from 1980 till the date of payment. In support of his claim he filed a decision of the High Court of Judicature at Bombay in the case of Euric Santana da Silva, Retd. Judge High Court, Panaji, Bench, Goa Vs. State of Maharashtra & others, Suo Moto Petition No. 614 of 1996 decided on August 31/September 2, 1996. The High Court allowed the claim relying on the case of State of Kerala Vs. M. Padmanabhan Nair, AIR 1985 SC 356 and awarded an interest of 15% per annum.

3. The respondents have contested this claim on the ground that a three year delay in the computation of pro-rata retirement benefits was caused on account of non-availability of the service book of the applicant for the period he worked in the Department of Education. It is stated that the applicant himself had collected his service book under a receipt and did not deposit it back to his employer Science Centre No. 1 in the Department of Education. From pages 4 to 6 of the counter affidavit the chronological steps that have been gone through for processing the applicant's claim of pro-rata retirement benefits, have been narrated. It is also claimed that the Tribunal's order awarding this pro-rata benefit in favour

Contd..... 4/-

of the applicant had completely negated the prayer for grant of interest. That order having become final, the applicant cannot pursue a similar claim in an independent Original Application.

4. I have heard the applicant in person and the learned counsel for the respondents. This is not a case of delay in payment of retirement benefits in a conventional sense. The pro-rata payment of terminal benefits claimed by the applicant by his representation dated 28.12.1984 was rejected by the Delhi Administration. Till the Tribunal allowed his O.A. and granted such benefits by the order dated 12.11.1993, the applicant had no right in claiming the terminal benefits for the services rendered under the Delhi Administration. Thus, the applicant has absolutely no justification in claiming interest from 1980 onwards, because the principle of res judicata would operate on such a claim, as held by the Hon'ble Supreme Court in the case of CIT Bombay Vs. T.P. Kumaran, 1997 SCC (L&S) 135. The facts in that case were that the respondent's Suit against his dismissal was decreed and consequently he was reinstated. His arrears were not paid by the department, as such he filed a Writ Petition for the arrears which was allowed and the arrears paid. Subsequently he filed another Original Application before the Tribunal for interest on the said arrears. The O.A. was allowed, against which SLP was filed. The Hon'ble Supreme Court held that such a claim not having been made in the said Suit or Writ Petition is barred by res judicata and the O.A. was held to be unsustainable. Secondly, from November, 1993 till the date of payment of arrears the respondents have been struggling hard as

Contd.....5/-

9

the chronological dates mentioned in the counter affidavit would show. No doubt it could have been expedited on certain occasions and certain gaps are too long but the inherent difficulties of non-availability of service book, securing orders for crossing efficiency bar; securing a clearance from various agencies; and in particular this being a very ancient matter the time taken to co-ordinate the relevant records do not show any negligence on the part of the respondents. On the ground that there is already a final order negating the claim for interest and on the ground that the delay of about three years is to a large extent explained, I do not think this is a fit case wherein the applicant's claim can be considered.


5. With regard to leave encashment, para 8(1) of the relief clause, the amount was paid to the applicant on 10.3.1997 after adjustment of certain interest items as mentioned in page 7 of the counter affidavit. As this Original Application was filed on 31.12.1996, the applicant possibly had not considered this payment in making the claim for 161 days earned leave. With regard to the amount of Rs.650/-, para 8(ii) of the relief clause, the respondents state that the applicant had not made the Controller of Accounts, Govt. of Delhi as a respondent and none of the respondents, named in the Original Application, is dealing with the GPF claim. In this view of the matter if the applicant still has a grievance that some small amount has not been paid to him, he may approach the Controller of Accounts with a representation for his GPF, who shall consider the same and dispose it of within four weeks from the date of receipt of the representation. With regard to leave encashment similarly the applicant if still is dissatisfied with the computation, he may bring out any deficiency

Contd.....6/-

10

therein and approach the concerned competent authority for complete payment of his leave encashment. These are matters of arithmetic and accountancy and no principle is involved. The respondents shall consider this aspect if pointed out and redress the same expeditiously.

6. With the above observations, the application is dismissed. The parties shall bear their own costs.


(N. Sahu)
Member (A)

rkv.