

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA-1318 of 1997

New Delhi, this the 5th day of January, 1998. (8)

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

Dina Nath Rajpal
AE Retd.
S/o Late Sh.Khem Chand Rajpal
R/o N-83, Kirti Nagar,
New Delhi - 110 015

... Applicant

(Applicant in-person)

Versus

Union of India : through

1. The Secretary
Ministry of Defence
New Delhi-110 001

2. Chief Engineer
Delhi Zone,
Delhi Cantt-10

3. Sh.G.P.Saha,
AO II.CEDZ.
Delhi Zone,
Delhi Cantt-10

... Respondents

(By Advocate : Sh.R.P. Aggarwal)

ORDER(ORAL)

By Sh. N. Sahu, Member(A) -

Heard.

2. The prayer in this OA is to direct the respondents to pay retiral benefits by way of balance of leave encashment and to allow interest at 18% per annum on leave encashment till the date of final payment. The applicant also claims some sort of damages for depriving him of his legitimate dues.

3. The applicant retired on 31.03.1995 from MES as an Assistant Engineer. The admitted fact is that the CGEIS payment amounting to Rs.9,320/- was due to

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him on 31.03.1995 but was actually paid on 05.06.1995 entailing a delay of 2 months and 5 days. In respect of leave encashment, the amount due is paid in parts. The first part of Rs.47,685/- due for payment on 31.03.1995 was actually paid on 26.08.1995 entailing a delay of about 5 months. The balance of the amount of leave encashment of a sum of Rs.13,515/- was ordered to be paid but not actually paid during December, 1997 when it was due on 31.03.1995. There is a delay of 33 months.

4. Learned counsel for respondents made a two fold submission. He mentioned that there was no deliberate delay on the part of the respondents because the leave accounts were maintained at two places. There was a need also for adjustments to be made of leave availed and there was a problem of adjusting half-pay leave and finding out the balance of leave due. Citing Rule 40 of the CCS (Leave) Rules, 1972 it is stated that if leave already availed of is more than the leave to his credit, necessary adjustment shall be made in respect of leave salary overdrawn. Accordingly, his entire leave account was checked and after adjusting the excess leave of 105 days of HPL availed of by him, the balance leave at his credit was encashed. The second point made by the learned counsel is that according to the applicant's admission at Para 4.10(iii) only Rs.5,701/- has been deducted in excess by the department and not Rs.13,515/-. This is in accordance with the applicant's own admission.

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5. The applicant states that the correct position of leave due and the amount payable was re-examined once again and the respondents themselves have ordered the payment of Rs.13,515/- and it is felt that the respondents should know better of what they are doing in this regard. If there is an error the respondents are entitled to correct the same after a discussion with the applicant. There should be no need for debate on this issue. Leave encashment is something to be determined as per rules.

6. After going through the material placed on the record, I am satisfied that no interest is payable on the delay of 2 months and 5 days for CGEIS. Both by instructions and by convention, a month's grace period is given to the Government for collecting relevant records and processing the claims. Under the instructions of the Ministry of Personnel, all the retirement benefits have been ordered to be paid on the date or the day following a Government servant's retirement. There are innumerable instructions, exhortations and parameters made and issued in this regard to all disbursing officers. This is, of course, the ideal but in the peculiar circumstances of this case, I would not think it to be a fit case because I am not convinced that there is any administrative lapse in reckoning the CGEIS and there is no wanton delay in paying the same.

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7. In respect of leave encashment, however, the applicant's case is entitled to succeed. The respondents' contention that the leave account will be brought up-to-date after adjustments only after retirement deserves to be cited only to be refuted. Under the instructions, at least one year before the due date of retirement, the service-book of a prospective retiree should be carefully scrutinised, entries posted, leave availed or adjusted and any deficiencies thereon or any adjustments to be made thereto have to be completed well within time so that when the applicant retires, there is no need for delay in making payment of his retirement benefits. When such is the position, there is no justification for the respondents to start making their adjustments or to start calling for details from the applicant himself after his retirement. This is not a position that can easily be defended. An employee after a long period of service expects prompt payment of his retirement benefits in the evening of his life. Any delay in making the payments hurts him. In view of this, I am not satisfied with the explanation of respondents' counsel. I am giving one month's grace period as is usually done in all these cases and direct the respondents to make an interest payment of 12% per annum from 01.05.1995 till the actual date of leave encashment payment. With regard to second tranche paid, I would agree with the assessee that the respondents themselves, on a revised reckoning, ordered the payment of Rs.13,515/- and this amount shall be paid to him within eight weeks from the date of receipt of a copy of this order. Even so, these

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are matters which are defined and regulated by rules, if there is an error in the payment of this amount the respondents may, after an invitation to the applicant to discuss the issue, revise the same after due notice to the applicant.

8. OA is disposed of. No costs.

N. Sahu

(N. Sahu)
Member (A)

/Kant/