

36

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2573/97

New Delhi this the 31st day of March 2000

HON'BLE MR. V.K. MAJOTRA, MEMBER (A)

Shri D.N. Chopra,
S/o late Shri Balak Ram Chopra,
R/o BW-56-D SFS Shalimar Bagh,
Delhi-110 052

...Applicant

(Applicant in person)

Versus

Union of India- through

1. The Secretary,
Ministry of Energy,
Department of Coal,
C.G.O. Complex, Paryavaran Bhawan,
Lodhi Road, New Delhi.
2. The Pay & Accounts Officer,
Ministry of Coal,
Shastri Bhawan,
New Delhi
3. The Coal Controller
1, Council House Street,
Calcutta-700 001.

...Respondents

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicant has assailed the following orders/actions in this OA:-

i) Letter dated 28.11.96 Annexure A-I whereby applicant's pensionary benefits were sanctioned in implementation of order dated 13.3.96 of this Tribunal in OA No. 1751/92.

2) Annexure to calculation given by the respondents (Annexure A-2).

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3) Letter dated 13.11.98, Authority No. PAO/MOC/Pension/DNC/98-99/558 and calculation Sheet attached thereto (Annexed as MA-I).

Applicant had earlier filed OA-1751/92 in this Tribunal claiming all pensionary benefits for his combined service in A.G. office, Punjab and the then Coal Board from 20.3.1954 to 31.3.1975. The Tribunal vide order dated 13.3.96 allowed the OA with the following directions:-

" In the result, the application succeeds and is allowed. The respondents are directed to determine the pensionary benefits of the applicant on his transfer to the service of the Coal Board of India after counting the period of service rendered by the applicant under the Government under the Respondent No.3 before joining the Coal Board and for this purpose, the Respondent No.3 is also directed to discharge the liability of pro rata retirement benefits of the applicant for the services rendered by him under the said respondent. It is also provided that the aforesaid direction may be complied with in a period of 6 months from the date of receipt of a copy of this order".

Respondents calculated the arrears of pension due to be paid to the applicant on 1.1.1986 to be Rs. 38,571/- and the gratuity

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admissible as on 1.4.1975 as Rs. 13,125/- and arrears of pension from 1.1.1986 to 31.3.1997, as Rs. 1,05,840/- and relief admissible from 1.5.1990 to 1.7.1996 at Rs. 60,986/-. The applicant claims that he was not given interest on amounts payable to him although it was the fault of the respondents that the applicant was deprived of his legitimate claim for more than 8 years. On the contrary, the respondents charged a sum of Rs. 55,535/- as interest at the rate of 12% p.a. (compound), invoking the provisions of para 5(1) (b) of OM No. 28-10/84 dated 29.8.1984. According to the applicant, aforesaid provision has been wrongly interpreted by the respondents Vide Annexure A-4 dated 30.6.97 respondent No. 2 released the pension and the arrears of pension after expiry of 15 months from the date of judgment whereas the time limit fixed for the same was six months only.

Applicant has contended that though he had not received any terminal benefits from his previous employer A.G. Punjab, the respondents had wrongly imposed interest by misinterpreting the provisions contained in para 5(1) (b), ibid. Applicant was paid his arrears of pension only in July, 1997 i.e. 15 months after the date of expiry of the order in OA-1751/92. Applicant

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has claimed interest @ 18% p.a., on the delayed payment of gratuity and arrears of pension under Rule-68 of the CCS(Pension) Rules. Respondents have recovered a sum of Rs. 33,758/- being excess pension paid from 1.7.1975 to 27.8.1984 and gratuity paid Rs. 13,125/- (total Rs. 46,883/-). During the course of his arguments, applicant stated that whereas recovery of a sum of Rs. 33,758/- being excess pension is in order, recovery of Rs. 13,125/- against a gratuity of Rs. 10,625/- paid, was not in order, a sum of Rs. 2500/- being an excess recovery.

Applicant had put in a service of about 12 years from 24.3.1954 to 10.1.1966 with A.G. Punjab, 9 years from 13.1.1966 to 31.3.1975 with Coal Board Calcutta and 15 years from 1.4.1975 to 30.4.1990 with Coal India Limited. The Coal Board was dissolved on 31.3.1975 vide letter dated 21.3.1977. The retirement benefit of Coal Board Employees were settled as follows:-

a) Pension for those with 10 years or above of service.

b) Employer's matching contribution to be deposited in the Employer's P.F. A/c for those with less than 10 years of service.



(34)

Applicant's service of 9 years under Coal Board was reckoned for the benefit under the above said order and accordingly a sum of Rs. 24,266/- (matching contribution + interest) was credited in his P.F. Account. His service from 24.03.1954 to 31.03.1975 was not reckoned despite the several requests. The first instalment of the arrears of pension was paid to the applicant in July 1997. The arrears comprising pension from 1.4.1975 and gratuity for 24.3.1954 to 31.3.1975 being Rs. 10,625/-.

Applicant has sought quashing para-6 of (Annexure A-1) whereby an amount of Rs. 55,535/- has been charged as interest on the amount of Rs. 24,266/- and a direction to the respondents to pay the amount already deducted on account of interest on Rs. 24,266/- with interest @ 18% per annum. He has also sought a direction to the respondents to pay interest on the delayed payment of accumulated arrears of pension at 12% per annum amounting to Rs. 1,59,341/- and also to pay the difference of gratuity for the entire service from 24.3.1954 to 30.4.1990 and the amount paid by Coal India Ltd for the period 13.1.1966 and 30.4.1990. He has further sought quashing of the recoveries made by the respondents by the impugned order at Annexure M.A.I dated 13.11.1998, whereby an

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amount of Rs. 46,883/- has been recovered from the arrears of pension of the applicant and direction to the respondents to pay Rs. 10,863/- being the amount equivalent to the use of retirement benefit under para(b) of order dated 21.3.1977.

Respondents in their counter have denied having caused any undue delay in settlement of the pension case of the applicant. According to them, a sum of Rs.4,813/- only works out to be the arrears of pension as on 1-1-1986 for the period from 29.08.1984 to 31.12.1985, but the same became payable only after sanction of his pension in 1997. The applicant has claimed interest on gratuity Rs.13,125/- and an arrears of pension Rs.33,758/- for the period from 1.4.1975, to 28.8.1984, which was ~~not~~ admissible and payable to him. Respondents have contended that the applicant's right to count his past service as qualifying service for pension does not arise under the OM dated 29.08.1984 until the C.P.F. benefits already paid to the applicant have been refunded with interest. They have refuted anything like previous service in para 5(1)(b) *ibid*. According to the Respondent, applicant has been given interest at different rates ranging between 7.5% and 12% per annum as applicable on

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his CPF balance of Rs.9525/- as on 31-03-1975 for his service in the erstwhile coal board . He has already been paid a gratuity of Rs.1 lac by the Central Coal Fields Ltd., Ranchi, on his final retirement on 30.04.1990, Rs.33,758/- works out to be his arrears of pension for the period from 01.04.1975 to 28.09.1984 but the same is not payable to the applicant vide para-7 of the OM dated 29.08.1984 (Annexure S.1). However, these arrears were ~~to be~~ disbursed to the applicant only due to a clerical mistake. This came to light in October, 1998, this excess amount of Rs.33,758/- alongwith the excess amount paid as gratuity being Rs.13,125/- was recovered from him. Respondents have averred that applicant had made application with required papers and documents on 16.7.96, more than four months after the order of the Tribunal. He submitted his application for pro-rata pension for his past service from 20.03.54 to 10.01.1966 to A.G. Punjab on 11.07.1996. Explaining the delay in organising payments to the applicant, the respondents have given further details of correspondence among various offices of the Respondents for transfer of necessary papers and documents relating to the service of the applicant.

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Respondents have submitted that applicant had already been paid the entire admissible amount of gratuity up to the ceiling of Rs.1 lac on his final retirement from service on 30.04.1990 from Central Coalfields Ltd.,. The amount of gratuity (Rs.13,123/-) being irregular was, recovered. Therefore, the question of payment of any interest on gratuity should not arise at all.

The applicant and respondents' representative were heard and the material on record was carefully examined.

The applicant has maintained that under para 5(1)(b) of OM dated. 29.8.84, since he has not received any retiral benefit from the office of A.G. Punjab for his past service, the respondents were not entitled to charge any interest on employer's contribution of Rs.24,266/-. Departmental representative was of the view that the expression 'past service' has been used in respect of the total service and not the service rendered with the previous employer as contended by the applicant. The departmental representative stated that A.G. Punjab as applicant's previous employer had already paid the pro-rata share towards retirement benefit. From a close perusal of the aforesaid provisions, I am inclined to agree

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with the applicant that the expression 'past service' used in para 5(1)(b) ibid does not mean the 'total service' but the service rendered under the previous employer only. The purpose of getting back the terminal benefit already received by the applicant is to give him the new benefits settled under the new disposition. Here, even if A.G. Punjab had given his share of the terminal benefit of the applicant to the new employer namely, Coal Board, no benefit had passed on to the applicant. Thus respondent's question of charging any interest on the amount of Rs.24,266/- namely the retirement benefit paid by the Coal Board in respect of the service rendered by the applicant under the Coal Board does not arise at all. Whereas the respondents were entitled to recovery of an amount of Rs.24,266/- recovery of a penal interest of Rs.55,535/- was uncalled for and has to be refunded to the applicant. As regards recovery of a sum of Rs.13,125/- in lieu of gratuity paid to the applicant, the applicant has admitted that, whereas he had been paid gratuity of Rs.10,625/-, recovery of a sum of Rs.13,125/- has been effected. He has admitted that ultimately when he retired finally from the Central Coal Fields on 30.04.1990, he received a

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gratuity of Rs.1 lac. Therefore, the respondents are within their rights to receive back a sum of Rs.10,625/- only which had been received by the applicant by way of gratuity earlier on but recovering an excess amount of Rs. 2,500/- was an arbitrary action. From the documentary proof and its analyses, I find that an excess recovery of Rs.2,500/- has been deducted from the applicant on account of gratuity paid to him earlier which must be refunded to the applicant.

The applicant has also claimed interest on the delayed payment of arrears of pension. Whereas as per order dated 13.3.96 in OA 1751/92 respondents have been directed to determine applicant's pensionary benefits within a period of six months from the date of receipt of a copy of the order, the applicant was paid such arrears only in July 1997. Respondents have attempted at explaining the delay in settling the claims of the applicant by stating that applicant's application with required papers/documents was received by them on 16.7.96. The applicant had submitted his application for pro-rata pension for his past service to A.G.Punjab also on 11.7.96. If a period of six months is added to these dates, the respondents should have settled applicant's pensionary

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claims latest by 16.01.97. However, they were able to make payments only in July 1997. Thus, there has been a delay of six months in payment of pensionary benefits to the applicant for which it would be just and proper that the respondents are made to pay interest @ 12% for the said six months to the applicant. As regards applicant's claim for a sum of Rs.10,863/- being the amount equivalent to the use of retirement benefit under para 2(b) of Memo. 55019/54/75-CPC dated 21.03.1977 which relates to terms and conditions of service in Coal India Ltd., in replacement of existing terms and conditions of service of erstwhile Coal Board employees, Applicant has claimed that he has been denied use of an amount of Rs.9,525/- (contributory provident fund) from April 1975 to August 1984. The department's representative states that this amount was in applicant's CPF account which has swelled to Rs.24,000/- taking into account the interest calculated from time to time. This amount has been paid to the applicant which was recovered from the applicant from arrears of pension in July 1997. As the applicant had used the original sum of Rs.9,525/- alongwith the interest thereon till it was recovered in 1997, the question of any payment to him under para (b) of Memo dated 21.03.1977 does not arise at all.

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(i) As per the findings given above, in the body of the order, the respondents are directed to refund a sum of Rs.55,535/- to the applicant which was wrongfully recovered from him by way of penal interest on an amount of Rs.24,266/- i.e. the retirement benefit paid by the Coal Board to the applicant. In addition the respondents will pay interest on Rs.55,535 at the rate of 12% per annum from the date it was recovered from the applicant.

(ii) The respondents will refund a sum of Rs.2500/- along with interest at the rate of 12% per annum from the date it was recovered from the applicant being the excess amount over and above the gratuity of Rs.10,625/- which was paid to the applicant and recovered later.

(iii) The respondents will pay the interest at the rate of 12% for a period of six months on the pensionary benefits paid to the applicant in July, 1997.

(iv) The above payments should be made to the applicant by the respondents within a period of three months from the date of receipt of a copy of this order.

The O.A. is disposed of in the above terms.

No order as to costs.

V.K. Majotra
(V.K. MAJOTRA)
MEMBER (A)