

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.546/97

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

New Delhi, this the 4/6 day of June, 1999

Shri Avtar Chand
R/o Karam Singh
Retd. Manager, Military Farm
R/o B-30/III, Lajpat Nagar
New Delhi-59

.... Applicant

(By Advocate: Shri A.K. Bhardwaj)

Versus

UNION OF INDIA : Through

1. The Secretary
Ministry of Defence
Govt. of India
Central Secretariat, New Delhi
2. The Director General of Military Farm
Quarter Master General Branch
Army Headquarters
West Block No.3, R.K. Puram
New Delhi
3. Comptroller of Defence Accounts
Central Command
Meerut Cantt, Meerut
4. The Joint Comptroller of Defence Accounts
Jabalpur (M.P.) Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R

The applicant retired as a Manager of the Military Farm on 20.4.1982. As his pensionary benefits were not granted he filed an O.A. No.1517/90 before the Principal Bench. This O.A. was disposed of by an order dated 17.8.94 and a direction was given to the respondents to fix his salary and pay terminal benefits within a period of three months. It was also observed that if any grievance survives thereafter, the applicant will be at liberty to agitate the matter in a fresh O.A. in accordance with law. In case of default by the

respondents in paying the entire admissible dues, it was ordered that they will be liable to pay interest @ 12% P.A. from the date of receipt of a copy of the judgment till the date of actual payment.

2. The applicant thereafter filed an R.A. No.303/94 and the Tribunal vide its order dated 11.1.95 while dismissing the Review Petition, the Tribunal observed that ".... the applicant is at liberty to file fresh O.A., if so advised, in respect of the interest on the delayed payment, which he has unsuccessfully prayed for in the Review Application." It was made clear that the rejection of the Review Petition shall not preclude the applicant from filing a fresh O.A. in respect of his claim. The applicant now submits that the delay in releasing his retiral benefits is entirely on account of respondents. He also states that an amount of Rs.5793/- of his GPF account has not been released to him. He has also claimed Rs.2340/- as interest for 13 years from July, 1978 to July, 1991 on account of the double recovery of Rs.1000/- made by the respondents during his service career. He has also claimed arrears and interest on account of wrong fixation of his pay during his service career.

3. At the outset, it may be stated that the applicant's contentions regarding the fixation of his pay in 1978 and the various recoveries made from him during the service career are now barred both by limitation as also res-judicata. The applicant retired as far back as in 1982 and he approached this Tribunal in 1992. His contention regarding the wrong fixation of his pay relates to 1978. As held by Hon'ble Supreme Court in

29

Ratan Chandra Samanta and Ors. Vs. Union of India & Ors.

JT 1993(3) SC 418, delay deprives the person of remedy available in law and one who loses the remedy by lapse of time also loses his right. The applicant agitated or could have agitated these points in his earlier O.A. Hence he is also barred by res-judicata since the only question allowed was of interest on delayed payment of his retiral benefits.

4. In regard to the payment of Rs.5793/- on account of GPF, it was submitted by the learned counsel for the respondents that as per JCDA(Funds), no such amount is due to the applicant. As the GPF accounts are maintained by the JCDA(Funds), no directions can be granted on this plea of the applicant as it is not possible for the Tribunal to enter into any controversy on question of disputed facts.

5. The demand of Rs.1021/- on account of TA/DA vide para 5(e) of this petition has also been paid by the respondents. No interest can be granted on the delayed payment of TA/DA. The respondents themselves admit that the delay in release of retiral benefits to the applicant was on account of final fixation of his pay as Manager and not on account of any disciplinary proceedings against him. The responsibility for finalisation of his pay was thus entirely that of the respondents. However, the applicant approached the Tribunal only in 1990. In view of this position, he is entitled to payment of Interest only from filing of his first O.A. in the year 1990.

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30

6. In the result, the O.A. is partially allowed. The respondents will pay interest @ 12 per cent on delayed payment of gratuity and pension with effect from 1st ^{the} January, 1990 till the date of actual payment. This will be done within a period of three months from the date of receipt of this order.


(R.K. AHOOJA)
MEMBER (A)

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