

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 66/97

New Delhi this the 27th day of April 1998

Hon'ble Shri N. Sahu, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Shri M.K. Gautam,
R/o 29/1552 Naiwala,
Karol Bagh, New Delhi.

.....Applicant

(By Advocate: Shri Sohan Lal)

-Versus-

Union of India through:

1. Secretary,
Ministry of Urban Development,
Govt. of India,
Nirman Bhawan,
New Delhi-11.
2. The Director-General of Works,
Central Public Works Department,
Nirman Bhawan, New Delhi.
3. The Chief Vigilance Officer
C.P.W.D. Nirman Bhawan,
New Delhi.

... Respondents

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

HON'BLE MR. N. SAHU, MEMBER (A):

Heard Shri Sohan Lal, learned counsel for the applicant and Shri Madhav Panikar, learned counsel for the respondents. The reliefs prayed for in this OA are for a direction to the respondents to give vigilance clearance to the applicant after exoneration from the allegations of the memo dated 27.5.96 and for a direction to pay the gratuity, regular pension, commutation of pension without any further delay. The applicant also prays for payment of interest on gratuity at the rate of 18% per annum.

2. The pleadings in this case are complete. The applicant has, however, filed MA-2773/97 for bringing on record certain latest developments in this case.

3. The allegation against the applicant was with reference to non-verification of steel under the custody of the contractor for the two works at Chandigarh. He was served with a charge-memo dated 27.5.96 under Rule 16 of CCS & CCA Rules, 1965 for minor penalty proceedings. He was however paid provisional pension after this charge-sheet. Gratuity was not released to him. Respondents in their reply to the MA referred to above enclosed a copy of the order under filing No. 1/12/96-VSII dated 4.2.98. The order states that the President of India came to the conclusion that "no lapse can be attributed to Shri M.K. Gautam (applicant) in connection with the verification of steel bars and therefore decides to drop the charges against Shri M.K. Gautam, Assistant Engineer (Retired). The President orders accordingly." After this Order was passed, the respondents have no other material to contest the reliefs prayed for. Learned counsel for the respondents accordingly submits that in view of this exoneration, there is no case for the Department. The applicant has become entitled for the payment of the gratuity and other retirement benefits w.e.f. 31.5.96 - the date of his retirement as Asstt. Engineer from C.P.W.D. As it is a case of clean acquittal and complete exoneration and as the applicant had not been suspended though the charge-sheet was served on him only three days before the date of his retirement, it is a case where a direction should be issued for payment of the full amount of pension and gratuity from the date of his

retirement. we order accordingly and direct pension, gratuity and other retirement dues shall be paid to the applicant within four weeks from the date of receipt of a copy of this order.

4. The applicant claims 18% interest for the delay. The Hon'ble Supreme Court in the case of O.P. Gupta Vs. Union of India and others; 1987 (5) SLR SC 288 noticed the practice of allowing interest on delayed payment of pension and approved of the same, in para 27, which reads as under:

"Normally, this court, as a settled practice, has been making direction for payment of interest at 12% on delayed payment of pension. There is no reason for us to depart from that practice in the facts of the present case.

In R.R. Bhanot Vs. Union of India, AIR 1994 SC 1111, 12% interest was ordered to be paid on arrears of pension."

5. Prescribed rates in Rule 68 which have undergone a change will not apply because this is a case of unjust deprivation of rightful dues and not a case of delay on account of administrative lapse. We accordingly direct that from the date of retirement viz 1.6.96 till the date of payment the applicant shall be paid interest at the rate of 12% per annum on arrears of pension, gratuity and other retirement benefits. These retirement benefits shall be paid to the applicant as directed above within a period of four weeks from the date of receipt of a copy of this order.

6. Shri Madhav Panikar submits that interest is payable only on account of administrative lapse and, as the respondents could not release retirement benefits due to pending disciplinary proceedings are not liable to

pay any interest. The order of the President of India establishes that the applicant was not guilty. The effect of that order is that disciplinary proceedings should never have taken place. There was no justification to withhold his retirement dues as these proceedings were wrongly initiated against him. Under these circumstances as deprivation of right to pension and right to gratuity was caused on wrong grounds and as the applicant has been acquitted completely and honourably, interest shall be paid 12% per annum from 1.6.96 till the date of payment of retirement dues.

7. Shri Madhav Panikar has pointed out also that the additional amount due to the 5th Pay Commission's recommendations need not carry any interest because these amounts have been paid only recently to others. This point is well taken. If all others have been paid the additional amounts account within last three months, interest need not be paid to the applicant on those additional amounts.

8. The respondents shall exhibit in a note full details of pension and gratuity and calculation of interest for the delay. If advised, it will be open to the applicant to come to this Tribunal for redressal of any grievance arising therefrom. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

N. Sahu

(N. Sahu)
Member (A)

cc.