

(6)

Central Administrative Tribunal, Principal Bench

O.A.No.727/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 5th day of September, 1997

Dr. N.C. Singhal
s/o late Shri Lekh Ram
C-115, Greater Kailash - I
New Delhi - 110 048.

... Applicant

(By Shri Rajeev Bansal, Advocate)

Vs.

Union of India through
Secretary
Ministry of Defence
South Block
New Delhi - 110 001.

... Respondent

(None for the respondents)

O R D E R (Oral)

The OA has been filed by the applicant on 31.3.1997. On 30.4.1997 notice was issued to the respondents to file a reply. Even though service was complete, none had appeared for the respondents nor any reply was filed on their behalf. Further opportunities were also afforded to the respondents but none appeared. The case was listed for Possible Final Hearing on 29.8.1997 on which date also none had appeared for the respondents. The case was thereafter adjourned to today. Today also none has appeared for the respondents despite the case being called for twice. In the circumstances, I have no alternative but to dispose of the matter on the basis of the available pleadings on record and the arguments advanced by the learned counsel for the applicant.

2. The case of the applicant is that he was retired on superannuation w.e.f. 31.10.1980 from the post of Senior Eye Specialist & Head of Eye Department, Dr. R.M.Lohia Hospital, New Delhi. Before he joined in the Ministry of Health he had served the Army from 1943 to 1947 and from 1950 to 1953. Later he was again called to serve the Army during the period

Dr

(7)

22.1.1963 to 29.9.1969. He wanted to have his total full pay & allowances service reckoned for 'antedate'. After this matter had gone through High Court, the Supreme Court in Civil Appeal No.1404/71, AIR 1972 SC 628 held that the applicant was entitled to antedate 8 years, 11 months and 13 days for the purpose of his pay but no direction was given in regard to payment of interest on delayed payments.

3. The respondents thereafter issued an order dated 9.9.1983, Annexure A2 promoting the applicant to the rank of Lt. Col. w.e.f 8.8.1968. He has also thereafter been paid Rs.7,134/- on various dates between 19.12.1985 to 8.9.1986 by way of arrears of pay and allowances. Further payments of Rs.16028/- were also paid on the basis of refixation of pay in the rank of Lt. Col. on various dates viz., 19.6.1989 to 26.10.1989. The applicant thereafter represented for payment of interest on delayed payments which had been made to him after 14 to 17 years. He states that his claim was considered by the Ministry of Law and Justice which held that he was entitled to interest on the delayed payments at the rate of 18% per annum from 1.1.1966 till the date of actual payment. He also submits that the Controller of Defence Accounts (CDA), Pune vide his letter dated 27.3.1996, Annexure A3 addressed to Joint Director, DGAFMS, M-Block, New Delhi, conveyed that the Petitioner was entitled to a sum of Rs.94,559/- by way of interest on delayed payments. The grievance of the applicant now is that despite the opinion of the Ministry of Law and Justice and the letter dated 27.3.1996, A1, from the Controller of Defence Accounts, the respondents have not so far made any payments whatsoever. He has now come before the Tribunal seeking a direction to the respondents to make him the payment of Rs.94,559/- and further interest on this amount from April, 1990 till the date of payment.

On

8

4. The learned counsel for the respondents submits that the applicant has made a number of representations and has also met the Cabinet Secretary, and though he had been promised prompt action, nothing has happened regarding the aforesaid payments.

5. I have considered the matter carefully. As a result of the aforesaid judgment of the Supreme Court the applicant is entitled to 'antedate' his seniority and consequential benefits. The respondents have paid to him certain arrears of pay and allowances. The applicant was entitled to these payments at the relevant time, but since the respondents denied him benefit he had to approach High Court and then the Supreme Court. In the facts and circumstances of the case, the applicant is clearly entitled to the payment of interest on delayed payments. No reply has been filed by the respondents and the only available information as to the extent of the amount of the interest due to him is the letter of CDA, Annexure A1.

6. In view of the above position, I dispose of this OA with a direction to the respondents to calculate the interest in the light of the letter of the CDA, Annexure A1, dated 27.1.1996 and to pay the same to the applicant within a period of three months from the date of receipt of this order. The amount paid to the applicant will include the interest upto the date of the actual payment. No costs.

R. K. Ahooja
(R. K. AHOOJA)
MEMBER(A)

/rao/