

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 74 of 1997

New Delhi, this the 18<sup>th</sup> day of March, 1998

Hon'ble Mr. N. Sahu, Member(Admnv) (3)

Shri K.K. Marwah, S/o Sh.Late Pyare Lal,  
R/o A-247, Shiv Nagar, New Delhi. - APPLICANT

(By Advocate Shri U. Srivastava)

Versus

1. National Capital Territory of Delhi, through the Chief Secretary, Delhi Administration, Delhi.
2. The Director, Directorate of Education, Old Secretariat, Delhi Administration, Delhi. -RESPONDENTS

(By Advocate Shri Anoop Bagai)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

In this Original Application the applicant has claimed interest on arrears which were paid to him in accordance with the directions of this Tribunal in O.A.No.2368 of 1991 decided on 30.4.1996. In O.A. 2368/1991 the reliefs claimed were as under :

- (i) Crossing of Efficiency Bar in the scale of Rs.550-900 at Rs.750/-
- (ii) Fixation of pay after giving 15 annual increments in the scale of Rs.1640-2900 and Rs.2000-3500/-.
- (iii) Quasi Permanency and Permanency of service.
- (iv) Balance of arrears according to rate of pay and allowances admissible to him with retrospective effect which works out to be more than Rs. one lakh, as if the petitioner/applicant had never been suspended from service."

2. The finding of this Tribunal with regard to relief no. (iv) was as under -

As regards 4th relief, the respondents have already categorically stated that they have paid the entire arrears due to the applicant without any interest since no prayer has been made by the applicant regarding payment of interest on the payment of arrears and, therefore, we are not in a position to consider giving any direction regarding interest in the light of the judgment of the Supreme Court that if a relief is not sought, the same cannot be allowed by the Court/Tribunal"

(emphasis supplied)

(A)

3. The applicant in the present O.A. tries to revive his claim of interest on the basis of the observation of the Court. I am of the view that the observation made only permitted the filing of the O.A. but this Tribunal has to examine as to whether the claim is justified or not.

4. I, may refer to the decision of the Hon'ble Supreme Court in the case of Commissioner of Income Tax, Bombay Vs. T.P. Kumaran, 1997 SCC(L&S)175. In that case the respondent was working as Income-tax Officer when he was dismissed from service. His suit against the said dismissal was decreed and he was consequently reinstated. Since the arrears were not paid he filed a writ petition in the High Court. The High Court directed for payment of all the arrears and arrears have been paid. Thereafter, he filed an O.A. claiming interest, which the Tribunal allowed. On an appeal filed by special leave, the Hon'ble Supreme Court held that when the arrears were claimed he should have claimed also interest. He did not do so and,

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therefore, it operates as res judicata. Their Lordships further held under Order 2 Rule 2 C.P.C., he is prohibited from seeking the remedy separately.

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5. The applicant could have prayed for interest at the time of claiming his arrears. He did not do so. Neither did he claim interest in the relief clause extracted above. Since he could have claimed also interest but did not either at the time of making a claim of his arrears or at the time of filing the O.A. 2368/91 he is debarred from making a fresh claim on interest alone.

6. A brief factual background of this case also can be highlighted. The applicant was accused of utilising a forged matriculation certificate; M.Sc. certificate and M.Sc. marksheets as genuine documents. The charge was that he knew them to be forged ones. The Court acquitted him on a benefit of doubt. Thereupon the applicant filed O.A. No. 2368/91 seeking crossing of E.B., fixation of pay after giving 15 annual increments; and balance of arrears. That has been adjudicated upon. It has to be remembered that interest can be paid only for a palpable administrative lapse and not as a matter of right nor as a matter of equity. It is not in every case that interest can be paid. Was the deprivation of the original amount proper and warranted by the facts? Was the payment of the arrears made only because of the Court order? If there is any delay in the payment of arrears from the date of

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pronouncement of the court order probably there is some justification for a claim of interest. But in this case the court order itself gave the applicant right to claim arrears. I, therefore, hold that even on merits, there is no justification for claiming interest on arrears.

7. In the result, the O.A. is dismissed. No costs.

*Harasimhasu*  
(N. Sahu) 18/3/98  
Member (Admnv)

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