

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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O.A. No. 2485/94

Date of decision 13.2.1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri M.K. Dikit IAS.,
S/o Late Baburam Pujari,
resident of E-2/96, Arera Colony,
Bhopal.

... Applicant

(By Advocate Shri R.K. Kamwal with
Shri S.K. Gupta)

Vs.

1. Union of India through
Secretary to the Govt. of India
Ministry of Personnel, P.G. & Pensions
Deptt. of Personnel & Training,
North Block, New Delhi.

... Respondent No. 1

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

2. Govt. of M.P. through
Chief Secretary to the Govt. of M.P.,
Vallabh Bhawan, Bhopal

... Respondent No. 2

(By Advocate Sh. Asbok Singh)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved that the judgment of this Tribunal in TA 991/1985 (C.W. No. 540/84) dated 22.2.1988 has been implemented by the respondents with undue delay which has not been properly explained. He seeks following reliefs in this application, which have been filed under Section 19 of the Administrative Tribunal Act, 1985 as under :-

- (a) The applicant should be paid interest at the market rate on the arrears of pay and allowances which were due to him on 1.7.88 and which were partly paid on 4.5.1993.

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- (b) The applicant should be paid the amounts deducted on account of City Compensatory Allowance and Special Pay (i.e. Rs 23519) from his arrears bill.
- (c) The applicant should also be paid interest at the market rate on the aforesaid amount of Rs 23519 from 1.7.88 till the date of actual payment.

2. The brief facts of the case are that the applicant being aggrieved with certain adverse entries in his ACR filed a Writ Petition in High Court of Delhi which later on ^{was} transferred as T.A 991/85 to this ^{of A.T.A., 1985} Tribunal, under section 29/ and was finally disposed of on 22-2-1998. The Tribunal held:-

" There shall be a further direction that a Review DPC shall meet to consider the case of promotion of the petitioner to the Super-time scale of I.A.S. from the date any of his juniors in the State cadre was promoted to the said scale and in the event of his being found fit by the Review D.P.C. he shall be deemed to have been promoted to the said Supertime scale from the date his junior was promoted and he shall also be entitled to payment of arrears and salary and allowances."

3. Respondent No.2 i.e. State of M.P. filed a SLP in the Supreme Court against the judgment of the Tribunal dated 22.2.1988 (S.L.P. No.7801/88). Later, on the submission of the learned counsel for the petitioners/ appellants, this S.L.P. was dismissed as infructuous by the Supreme Court on 27.4.1992.

4. The applicant in TA 991/85 thereafter filed CCP 352/92 in this Tribunal, on which, an order was passed on

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10.12.1992.

5. Shri R.K.Kamal, learned counsel for the applicant submits that after the CCP was disposed of on 10.12.92 the applicant received the payment of arrears of pay only on 4-5-1993. Learned counsel for the applicant submits that the respondents had filed SLP in the Supreme Court in order to delay the payment of arrears of salary and allowances which ~~were~~ due to the applicant in accordance with the Tribunal's order. His argument is that since the respondents themselves have withdrawn the SLP later on, the delay of payment of arrears to the applicant should be compensated by payment of interest as claimed, for the delay in making the payments due to the applicant. The second argument of the learned counsel for the applicant is that the respondents have ~~not~~ deducted the CCA and special pay after promoting the applicant to the Supertime scale in accordance with the Tribunal's order while paying the difference of pay to him due on deputation. He also claims that the amount ^{of Rs 23519/-} deducted on account of CCA and special pay from his arrears should be paid with interest at the market rate from 1.7.1988 till the date of actual payment.

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6. Shri R.K.Kamal, learned counsel for the applicant submits that on the analysis of the reasoning in judgment of P.M.Venkatesan v.UOI^(OA 1304/89) and other connected OAs decided on 23.90, interest is payable on the delayed payments. He also refers to F.R. 44 and submits that CCA is not a source of profit to the recipient and hence ~~the~~^{he} should be allowed in the circumstances of the case.

7. Reply has been filed on behalf of respondents. Shri K.C. D. Gangwani, learned counsel for the respondent No.1 submits that by the application dated 25.5.1988 addressed to the Chief Secretary, Govt.of Madhya Pradesh, the applicant had himself requested that he may be promoted from the date when his junior was promoted and that he would not claim ~~for~~^{the} arrears. His submission is that after the orders of the proforma promotion in the supertime scale, as requested by the applicant has been granted, ~~and~~^{he} is estopped from claiming the arrears and ~~the~~^{he} interest cannot also be allowed. He further submits that merely because the respondents have filed SLP which is in accordance with law, no fault can be attributed to the respondents that they had done so only to delay such payments. He also refers to the fact that, as soon as the judgment in CCP 357/92 was given, payments due to the applicant have been made without any delay. He,

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therefore, submits that this application for payment of interest on delay/arrears of pay and allowances should be dismissed. Shri K.C.D. Gangwani, Id.counsel for the respondents also submits that as the applicant was, at that time, on deputation to the Central Govt., no special pay or CCA was payable to him. He has referred to the judgment in the CCP which reads as follows:-

" The petitioner should be given the arrears of salary and allowances which he would have got had he been duly promoted to the super time scale in his own turn. If during any particular period he was on deputation which entitled him to receive higher emoluments we would like to make it clear that the petitioner would be entitled only to the difference between the emoluments which he would have got had he continued in the Madhya Pradesh State on the supertime scale excluding the amount which he actually received during the period he was on deputation."

8. Learned counsel for the respondents, therefore, submits that in accordance with the order on CCP, arrears have been paid to the applicant and the question of interest on that amount does not arise. He submits that the order itself makes it clear that only the difference between the emoluments which he would have got if he had been continued in the State of M.P. on the supertime scale excluding the amount which he actually received during the period he was on deputation was due, which has been paid.

9. Shri Ashok Singh, learned counsel for the respondent

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No.2. has also been heard. He also relies on the directions contained in the CCP order dated 10-12-1992. He further refers to para 2 of order dated 10.12.1992, ^{and} submits that in the circumstances of the case, the Tribunal had condoned the lapse in not complying with the direction and had granted them further four weeks' time for ascertaining the actual amount payable to the petitioner. In the light of the aforesaid clarification, he submits that the due payments have been made and there is no delay in making the payments.

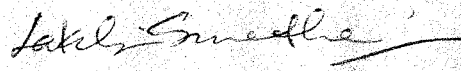
10. I have carefully considered the arguments of the learned counsel for the parties, pleadings and the records. The first ground taken by Shri ^{Ad. Counsel} Kamal is that the applicant is entitled for interest on the delayed payment because the respondents have unnecessarily filed an appeal in the Supreme Court against the order of the Tribunal dated 22.2.1988 without any merit and it was rejected. Special Leave Petition to the Supreme Court is provided under the law. Merely because the respondents had filed SLP in the Hon'ble Supreme Court does not entitle the applicant to claim any interest on the payment of arrears of salary and allowance. The ^{order} on CCP clarifying the amount to be paid was

given on 4-5-1993. In the facts and circumstances of the case, the claim for interest on delayed payment of arrears of salary and allowances has no merit. The claim for interest is therefore, rejected. The judgment relied upon by the applicant in case of Shri P.M.Venkatesan v. UOI and other connected OAs decided on 2-3-1990 (supra) will not assist the applicant in the facts of this case.

11. As regards the claim for amount deducted on account of CCA and special pay, I am unable to agree with the submissions made by the applicant that since CCA is not a source of profit to the recipient so he is entitled. If the claim of CCA is allowed to the applicant as claimed here, it would mean that the applicant would not only be entitled to the deputation allowance during the relevant period when he was on deputation to the centre, but at the same time be paid CCA and special pay to which he was not entitled and so get double benefit. ^{amount paid} This is in accordance with the order in the CCP which is quoted in para 7 above. In this order it is made clear that if during any particular period the applicant was on deputation which entitled him to receive higher emoluments, he would be entitled to only the " difference between the emoluments which he would have got had he continued in

the Madhya Pradesh State on the supertime scale excluding the amount which he actually received during the period he was on deputation." I, therefore, reject the applicant's claim for payment of CCA and special pay in addition to the arrears of pay and allowances which was already been paid to him on 4-5-1993. In view of this the question of paying any interest does not arise.

12. In the result, this OA is dismissed. Parties to bear their own costs.


(Smt. Lakshmi Swaminathan)
Member (J)

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