

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.1614/2000

New Delhi, this the 19 day of January, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

Shri Chandra Shekhar  
Office Supdt. Grade II (Retd.):  
from Research & Development Organisation  
Defence Science Centre,  
Meticalfe House, New Delhi-52.

R/O Plot No.23-24, Phase II  
Shyam Vihar, Najafgarh,  
New Delhi-43.

...Applicant.

(By Advocate: Shri K.P.Dohare)

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Union of India through

- 1.. Secretary,  
Ministry of Defence,  
Govt. of India,  
South Block,  
New Delhi-1.
- 2.. Secretary,  
Ministry of Personnel &  
Public Grievances,  
Govt. of India,  
North Block,  
New Delhi-1.
- 3.. Director,  
Reserach & Development Organisation,  
Defence Science Centre,  
Met Calfe House,  
New Delhi-52.
- 4.. Chief Coontroller of Defence~  
Accounts (Pension),  
Office of the Chief CDA (Division)  
Allahabad (UP)

..Respondents..

(By Advocate: Shri S.M.Arif)

O R D E R

The applicant who worked as Office Supdt.  
Grade II in the office of the respondents, voluntarily  
retired from service we.f. 31.10.97. Since the retiral  
benefits accruing to the applicant were not paid in time,  
he filed OA-2479/98 in the Principal Bench of this  
Tribunal in which the following order was passed on  
20.7.99:-

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"7. I direct the respondents to calculate and pay interest to the applicant at the rate of 15% per annum from 1.1.98 on the retirement dues including pension and gratuity, till the date of payment of the same within a period of twelve weeks from the date of receipt of a copy of this order."(emphasis supplied)

2. The aforesaid order was not complied with by the respondents in time. The applicant, therefore, filed a Contempt Petition in this Tribunal being CP-53/2000 which was decided on 28.3.2000. In that order, the Tribunal observed that "...interest has been paid w.e.f. 1.1.98 on Leave Encashment, Group Insurance and GPF at the rate of 15% per annum. In the circumstances, we find that the respondents have now fully complied the orders of this Tribunal..."(emphasis supplied)

3. The aforesaid C.P. was accordingly closed. Not satisfied with the decision of this Tribunal in the aforesaid CP, the applicant filed RA-139/2000 seeking review of the decision taken in the aforesaid CP. This was decided by the Tribunal on 12.7.2000. In the aforesaid order, the Tribunal made the following observations and dismissed the RA:-

"3. The respondents oppose the application and submit that the applicant was paid the total pension of RS.2958/- which includes commutation value of Rs.1183/- and he was also paid interest on the delayed payment of pension. Hence the applicant is not entitled for the amount as claimed by him.

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6. It is, however, open to the applicant to reagitate the matter by way of another OA if he is still aggrieved by this order, on the question of interest on the

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alleged non-payment of interest on the  
alleged commuted Value of Pension."

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4. It would seem that by the aforesaid order, the Tribunal permitted the applicant to reagitate the matter in respect of the non-payment of interest on the commuted value of pension. The present OA has been filed accordingly.

5. It has already been stated that the respondents failed to comply with the orders of this Tribunal passed in OA-2479/98 within the time frame indicated in the said order. Accordingly, they (respondents) filed MA-2299/99 seeking extension of time for the implementation of the aforesaid order. The application was opposed by the applicant on the ground that the respondents were seeking extension of time not for complying with the orders of the Tribunal but for the purpose of filing an appeal against the Tribunal's order in the Hon'ble High Court. However, the application was granted and the respondents were allowed to comply with the orders of the Tribunal in OA-2479/98 upto 1.1.2000. This order was passed on 29.11.99. From the papers placed on record by the applicant, it would seem that the respondents did in fact approach the High Court through C.M.P.14011/99 in C.W.P.7458/99. However, both the petitions were dismissed by the High Court on 16.12.99. The High Court did not find any ground to interfere with the impugned order of this Tribunal. Having failed at the level of the High Court also, the respondents prepared themselves for making payments in compliance with the Tribunal's aforesaid order.

6. The learned counsel appearing for the applicant has stated during the course of hearing on 4.1.00 that

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while the respondents have made all the payments in terms of the Tribunal's order, they have failed to pay interest on the amount of commuted value of pension from 1.1.98 to 2.2.99 and on the amount of gratuity also for just one month. According to the learned counsel, the aforesaid amounts work out to Rs.25,663/-.

7. The learned counsel appearing for the respondents has relied on the orders of this Tribunal dated 20.7.99 (OA-2479/98) to contend that the same does not contemplate the payment of interest on the commuted value of pension. I do not agree with this contention. From the extract of the aforesaid order of this Tribunal reproduced in para 1 above, it is clear that the respondents were required to pay interest @ 15% p.a. from 1.1.98 on all the retirement dues including pension and gratuity. The same clearly implies that interest has to be paid on the amount of the commuted value of pension. In the face of this specific direction/order of the Tribunal, the respondents' contention that under the CCS (Commutation of Pension) Rules, no fixed date has been prescribed for the payment of commuted value of pension, deserves to be rejected. The same is accordingly rejected.

8. The learned counsel for the respondents has further contended that since the applicant has already been paid interest on the amount of the entire pension, the question of payment of interest on commuted value of pension does not arise. In support of this contention, the respondents have placed on record a calculation sheet

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(Annexure R-4) showing the amount of interest paid @ 15% p.a. on the total amount of pension. According to the aforesaid sheet, the amount of interest of monthly pension from January, 98 to December, 98 progressively totalled to Rs.443.70/-. The said sum appears to have been arrived at by multiplying by 12 the amount of one month's interest on one month's pension calculated @ 15% p.a. The learned counsel appearing for the applicant has questioned this method of calculation and has correctly pointed out that it is difficult to find out from the aforesaid calculation sheet how the figure of Rs.2884.05 by way of interest on pension has been arrived at. I too find it immensely difficult to see how interest on the commuted value of pension can be denied on the basis of the interest paid on pension in terms of the calculations displayed in the aforesaid sheet. In the circumstances, the aforesaid plea of the respondents, being untenable, is also rejected.

9. From the letter placed by the respondents at Annexure R-1, it would seem that interest has been paid by the respondents on the amount of gratuity for a period of 12 months from 1.1.98 to 31.12.98. The same has been shown in the aforesaid calculation sheet also. Clearly, therefore, the respondents have not paid interest on the amount of gratuity for the 13th month which is due to the applicant. The respondents are, therefore, still required to pay the aforesaid amount of interest on gratuity as well.

10. In the background of the above discussion, the OA succeeds and the respondents are directed to make

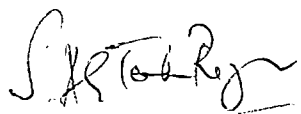
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payment of interest on the amount of commuted value of pension for the period of 1.1.98 to 31.1.99 and on the amount of gratuity for just one month. It is clarified that in the event of the respondents discovering, after a thorough scrutiny, that they have already paid some amount as interest on pension exceeding the reduced amount of pension after the payment of the commutation amount to the applicant, the same would be recoverable from the amount of interest <sup>included</sup> @ 15% p.a. and found payable on the amount of commuted value as above. However, before the respondents make any such recovery, an opportunity of being heard will be given to the applicant after providing the details of recovery to him, and for this purpose 15 days time will be allowed by the respondents. The respondents are further directed to make the aforesaid payment as expeditiously as possible and in any event within a period, all told, of three months from the date of receipt of a copy of this order.

11. The OA is allowed in the aforestated terms. No costs.

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(S.A.T. Rizvi)  
Member (A)