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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1585 of 1989

New Delhi this 26th day of April, 1994.

CORAM:

Hon'ble Mr. J. P. Sharma, Member(J)

Hon'ble Mr. S. R. Adige, Member(A)

Shri R. Chakraborti Biswas,
A-21, Chittaranjan Park,
New Delhi -110 019.

By Advocate Shri C. B. BabuApplicant.

Versus

1. Union of India,
rep. by the Secretary,
Ministry of External Affairs (PF & SW)
New Delhi-1.
2. The Director,
Indian Institute of Technology,
Kanpur, IIT Post Office,
Kanpur-208 016.

By Advocate Shri V. S. R. Krishna ...Respondents.

J U D G M E N T

By Hon'ble Mr. S. R. Adige, Member(A)

In this application, Shri R. Chakraborti Biswas, retired Librarian, Indian Institute of Technology (I.I.T), Kanpur who before his absorption there was working as Chief Librarian, Ministry of External Affairs (MEA), New Delhi has preferred a claim for Rs. 43,565-OOP consisting of Rs. 38,264-OOP from the MEA (respondent No. 1) and Rs. 5301-OOP from the I.I.T. (Respondent no 2) as interest on account of alleged delayed payment of GPF; DCRG; commuted valued of pension; monthly pension etc.

2. The applicant was initially appointed as Librarian in MEA on 20.9.61, which post in course of time was re-designated as Chief Librarian. On 8.5.79 he was selected as Librarian in the IIT, Kanpur and joined duties there on 1.6.79 on foreign service

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terms. His parent department (MEA) relieved him on 21.5.79 subject to the condition that his leave salary, pension contribution etc. during the period of his deputation to IIT would ~~be~~ have to be paid to the parent department, either by him or by the IIT till such time as he was permanently absorbed there. The applicant joined duties at IIT, Kanpur on 1.6.79 on foreign service terms and the IIT agreed to pay his leave salary and pension contribution vide letter dated 3.9.79. He was absorbed in IIT w.e.f. 1.6.81 vide notification dated 18.7.81, and upon his absorption the applicant opted ^{for} the IIT Pension Scheme in terms of DPAR's O.M. dated 29.8.84 (Annexure-A). On 4.11.85, the applicant was informed that he was due to superannuate on 31.1.86. The applicant states that he requested the IIT to address the MEA to transfer the entire sums standing in his credit from his GPF account with MEA to his GPF account ⁱⁿ the IIT, Kanpur at the earliest opportunity. On 31.1.86, he superannuated. On 12.2.86, the IIT wrote to the MEA to discharge their liability of prorata pension and DCRG by payment in lump sum (Annexure-B). On 24.3.86, the MEA informed the IIT that the pension contribution and leave salary contribution by the IIT during the applicant's deputation period, along with interest on the total contribution for delayed payment had to be sent first to the MEA, so that the Ministry's contribution could be sent along with the said sum to the IIT in lump sum. On 16.4.86, the IIT sent a draft to the applicant for Rs. 4872/- and Rs. 5280/- i.e. Rs. 10,152/- in all ^{on} pension and leave contribution respectively in favour of Controller of Accounts, MEA, New Delhi for ^{the} period of deputation of the

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applicant from 1.6.79 to 31.5.81 which the applicant deposited with the COA, MEA. On 20.6.86, the COA, MEA forwarded a draft for Rs. 61,525/- on account of transfer of GPF balance from the Ministry to IIT requesting that interest on the said amount after November, 1985 be paid by IIT (Annexure-C). Eventually, on 26/27.8.86, the IIT sent a draft to the applicant for Rs. 61,365/- after deducting Rs. 160/- as bank charges which the applicant received on 31.8.86. Meanwhile, on 28.8.86, the Under Secretary, MEA addressed the COA that as per terms of DPAR's O.M. dated 29.8.84, the pension and DCRG liability for the services rendered by the applicant with MEA had to be discharged by the MEA in one lump sum and the COA was requested to arrange a bank draft for the amount as worked out by the Ministry and send the same to the IIT at the earliest. On 13.2.87, the Administrative Officer (Pension), MEA resubmitted the applicant's pension papers to the COA, MEA for issue of necessary authority for transferring the commuted value of pension and DCRG as one time settlement to IIT Kanpur. It was stated that the applicant's service documents which were sent to the Department of Pension for waiving of the requirement of his medical fitness entry have been lost in transit, and a certificate admitting the applicant's services as qualifying for pension was sent (Annexure-E). On 18.2.87, the MEA reminded the Department of Pension to return the applicant's service records with their note and on 31.3.87, the Administrative Officer (Pension), MEA informed the COA, MEA that since the applicant's service records and pension papers had since been found, further action be taken at the earliest for transferring the commuted value of pension and DCRG to IIT, Kanpur (Annexure-F). On 1.5.87, the Pay and

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Account Officer, MEA requested the Under Secretary (Cash), MEA to prepare a bill in Form T.R. 37(B) for ^{the bill} extent of amount as worked out and finalised by the Ministry for the grant of pensionary and other benefits and to submit the same to the PAO. He further requested to obtain a demand draft in favour of Director, IIT as requested by the same on 12.2.86. On 2.7.87, the Administrative Officer (Pension), MEA forwarded the applicant's service documents along with a demand draft dated 15.6.87 for Rs. 87,861/- to the Director, IIT on account of Government's liability for pension and DCRG in respect of the applicant's services with GOI for the period from 20.9.61 to 31.5.81. Thereupon, the IIT passed an office order dated 24.8.87 stating that the applicant was eligible to have his pension determined on the basis of combined ⁽ⁱⁿ⁾ services under the Central Government and at IIT in accordance with DPAR's O.M. dated 29.8.84 and vide order dated 27.8.87, the IIT, Kanpur sanctioned the commutation of the applicant's pension at Rs. 69,691/- and DCRG at Rs. 49,000/- (Annexure-H) which the applicant collected the same day. The applicant has alleged that the delay had occurred in releasing his GPF, DCRG, commuted value of pension, monthly pension etc. and represented to the authorities claiming interest thereon, but receiving no reply in spite of reminders, filed this application.

3. We have heard Shri C.B. Babu, learned counsel for the applicant and Shri V.S.R. Krishna, learned counsel for the respondent No. 1 (MEA) and Ms. Sunita Rao, learned counsel for the respondent No. 2 (Director, IIT, Kanpur). At the outset we note that this

Tribunal has no jurisdiction over the IIT, Kanpur or its employees as the IIT is a wholly autonomous organisation and its employees do not hold any civil post under the Union. The IIT, Kanpur is not covered by notification issued under section 14 of the AT Act either. Hence in so far as the applicant's claims against the IIT, Kanpur are concerned, we are unable to adjudicate the same and the applicant is free to pursue his remedies in the appropriate forum.

4. The applicant has furnished a chart which is taken on record, itemising his claims for interest against the MEA and the IIT totalling Rs. 43,565/- in respect of (A) GPF; (B) Commutation and DCRG and (C) Monthly pension. Analysing these claims in the light of the rival contentions and the legal position, what emerges is as follows;

(A) GPF

i) The applicant has claimed from MEA interest at the normal rate i.e. 6½% p.a. on Rs. 61,525/- for December, 1985 and January, 1986 (two months) i.e. Rs. 641/-. We note that in the MEA's letter dated 20.3.86, to the IIT, forwarding the demand draft for Rs. 61525/- on account of transfer of the applicant's GPF balance, they have advised that the interest after November, 1985 be allowed at IIT's end. Notwithstanding the fact that the applicant had applied for transfer of his GPF balance from MEA to IIT as late as 9.4.86 instead of one year prior to his date of retirement as required under rules, and sent a demand draft for monthly pension contribution and leave salary as late as 14.5.86 (Annexure-R VI), as the interest on GPF retained is admissible up to the date of superannuation, ~~and~~ therefore, this item of the applicant's claims deserves to be allowed. The

respondent no.1 (MEA) is directed to pay to the applicant Rs.641/- as interest @ 6½% p.a. for the period December, 1985 and January, 1986 (two months) within 90 days, from the date of receipt of the copy of the order.

ii) The applicant has claimed interest from MEA @ 18% p.a on Rs.62166/- (Rs.61525/- + 641/-) for the period 1.2.86 to 20.6.86 the date ^{on} which the MEA sent the demand draft to IIT i.e. Rs.4292/-. This claim is rejected because the applicant had himself made the request for transfer of his GPF balance from MEA to IIT, supported by an application in the prescribed form GPF 10(A) only on 9.4.86 and the MEA transferred the same on 20.6.86, which cannot be called wilful delay or negligence by any means. If the applicant claimed penal interest, he must himself have come with clean hands but he himself delayed the submission of the GPF forms etc.

iii) The applicant has claimed interest from IIT @ 18% p.a on Rs.62166/- for the period 21.6.86 to 26.8.86, the date on which the IIT sent the demand draft for Rs.61365/- to the applicant i.e. Rs.2023/-. As this Tribunal has no jurisdiction over the IIT, Kanpur, we cannot adjudicate this claim and the applicant is free to pursue this remedy in the appropriate form.

(B) Commutation and Gratuity

i) The applicant has claimed from MEA interest @ 18% p.a. on commuted value of pension of Rs.69691/- for the period 1.2.86 to 2.7.87 i.e. Rs.17768/-. This claim is rejected for here again the applicant has not come with clean hands. The applicant had sent a demand draft for monthly pension contribution and leave

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salary as late as 14.5.86 (Annexure-RVI) and his application for pension itself was filed 5.5.86 instead of well before 8 months prior to his retirement as per prescribed instruction. The applicant cannot claim that he did not know his date of superannuation. There is merit in the contention of respondent no.1 (MEA) that had the applicant filed the documents in May, 1985 itself, the payment of commuted value of ^{his} pension would have been released immediately after the applicant's retirement without any delay. Moreover, the order dated 26/27.8.87 sanctioning the commutation of 1/3rd of the applicant's pension amounting to Rs.592/- p.m. and paying him Rs.69691/-, states that the superannuation pension at Rs.1776/- per month will stand reduced to Rs.1184/- p.m. from the date the commuted value of pension is disbursed to him. In other words, the applicant was permitted to draw full pension at the rate of Rs.1776/- p.m. w.e.f. 1.2.86 till the date the commuted value of pension was disbursed to him, and he cannot enjoy the double benefits of full pension plus final interest on the time taken in sanctioning commuted pension.

ii) The applicant has claimed from IIT interest @ 18% per annum on the commuted value of pension of Rs.69691/- for the period 3.7.87 and 27.8.87. As the Tribunal has no jurisdiction over the IIT, the applicant is at liberty to pursue his remedies in the appropriate forum.

iii) The applicant has claimed from MEA interest @ 18% p.a. on gratuity Rs.49,000/- for the period 1.2.86 to 2.7.87 i.e. 12,491/-. This prayer is rejected for the reasons expressed in detail in (B) (i) above.

iv) The applicant claims from IIT interest @18% p.a. on gratuity of Rs.49,000/- for the period 3.7.87 to 27.8.87 i.e. Rs.1353/-. As the Tribunal has no jurisdiction over the IIT, the applicant is free to pursue his remedies in the appropriate forum.

(C) Monthly Pension:

The applicant has claimed from MEA interest @ 18% p.a on MEA's share of pension contribution of Rs.33,368/- from 1.2.86 to 31.7.87 i.e. Rs.3071/-. As the applicant claims penal interest from the respondents alleging wilful delay and negligence in making payment on their part, ^{he /w/} must have come with clean hands, but this is not the case with the present applicant. Under the circumstances, for the reasons explained in B(i) above, this claim is rejected.

5. In the result, this application is partly allowed to the extent stated in paragraph A(i) above. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

J.P. Sharma
(J.P. SHARMA)
MEMBER (J)

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