

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

MA No. 804/94 im
OA. No. 2487 of 1989

Dated New Delhi, the 18th day of April, 1994

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman (J)
Hon'ble Mr B. K. Singh, Member (A)

By Advocate: None
(Applicant in person)

VERSUS

1. Union of India, through
The Secretary
Ministry of Law and Justice
Department of Legal Affairs
4th Floor, 'A' Wing
Shastri Bhawan
NEW DELHI 110 001
2. The Secretary
Ministry of Finance
Department of Revenue
North Block
NEW DELHI 110 001
3. The Additional Secretary
Department of Supply
Ministry of Commerce and Supply
Nirman Bhawan
NEW DELHI
4. Director General of Supplies and
Disposals, Jeevandara Building
Parliament Street
NEW DELHI
5. Central Board of Excise and Customs
Through the Chairman, Central Board
of Excise and Customs
North Block
NEW DELHI 110 001
6. Secretary
Personnel, Public Grievances
and Pensions
North Block
NEW DELHI 110 001
7. The Senior Vice President
Customs, Excise and Gold Control
(Appellate Tribunal)
West Block No.2
R. K. Puram
NEW DELHI 110 066

... Respondents

By Advocate: None present

By Advocate: None present

... Respondents

Contd...2

O R D E R (Oral)
(Hon'ble Mr Justice S. K. Dhaon)

This MA.804/94 has purportedly been filed under Section 24 of CAT (Procedure) Rules, 1987. The prayer, in substance, is that the judgement dated 29.11.91 given by this Tribunal may be clarified with a direction to the respondents to pay interest to the applicant on the balance amount of gratuity and commuted value of pension etc.

2. The applicant has come to this Tribunal with the following prayers:-

- (a) Allow the application and set aside the impugned orders;
- (b) hold that the second proviso to Rule 30 of CCS (Pension) Rules is unconstitutional and invalid consequently strike it down;
- (c) hold that the applicant is entitled to the benefit of addition of five years of service in terms of Rule 30, regardless of non-compliance with the said second proviso thereto;
- (d) direct the respondents to recompute all retiral benefits including pension, commuted value of pension, gratuity etc. on the basis of 28 years of qualifying service and payment of arrears with 18% interest; and
- (e) Award cost of this application and pass necessary orders as may be deemed fit in the interest of justice.

3. The Tribunal by the said judgement disposed of the OA.2487/89 preferred by the applicant, in the following words:-

"On the rest of pleas raised in the OA as to the interpretation of Rule 30 of the CCS (Pension) Rules and Rule 12-A of the Indian Legal Service Rules have been raised. For the reasons given in the judgment dated 1.10.91 in OAs 282/89 - R. N. Misra (Supra) and 1787/88 - A, Neelkantan (supra). We hold that the applicant has succeeded in making out a case for interference and to the benefit of the provisions of Rule 30 of the CCS (Pension) Rules, 1972. We accordingly allow the OA. We further direct the respondents that the calculations for recasting the pension, gratuity and other retiral benefits shall be made within a period of three months from the date of receipt of a copy of this order and paid to the applicant. there will be no order as to costs."

S/

Contd...3

4. It is contended by the applicant, who appears in person, that, since the Tribunal in its Judgement observed, "We accordingly allow the OA", it, by implication, directed payment of interest to him at the rate of 18%. This contention is untenable. The context and setting of the order in the light of the reliefs claimed indicates that the Tribunal impliedly declined to award interest to the applicant.

5. If the submission of the applicant is correct, the natural corollary will be that it should be understood that the Tribunal held that the second proviso to Rule 30 of the CCS(Pension)Rules is unconstitutional and invalid.

6. Grant of relief of interest is not obligatory. It is discretionary on the part of the Court/Tribunal either to allow the same or not to allow the same. A number of authorities have been cited by the applicant to show that it is a judicial practice to award interest. We are not sitting in appeal over the judgement of the Tribunal. A number of authorities have been cited by the applicant showing that apart from the statutory power of review, the Tribunal/Court has an inherent or implied jurisdiction to review or correct its own mistakes/errors. We are not satisfied that the Tribunal made a mistake by omission in not considering the prayer of the applicant for the award of interest to him. It is a trite law that if a number of prayers have been made in a particular suit or application and only some of them are allowed, it is implied that the rest of the reliefs have been refused.

7. Lastly, we may note that the order of the Tribunal is dated 29.11.91 and this application has been filed on 19.3.94. We may also indicate that the documents filed in support of this application themselves show that way back on 1.2.1993, the Registrar, Customs, Excise & Gold (Control) Appellate Tribunal, had informed the applicant that no interest on the enhanced pensionary benefits was payable to him. Yet, no plausible explanation has been offered by the applicant for approaching this Tribunal in March, 1994. The applicant pointed out that he made some representation to the Ministry of Law. The applicant had no statutory right to approach that Ministry. The applicant contends that no period of limitation is prescribed for filing a M.A. It is true that no limitation is prescribed. However, an application should be filed within a reasonable time. We are satisfied that this has not been done.

8. The application is rejected.

(B)

(B. K. Singh)
Member (A)

(S. K. Dhaon)
Vice Chairman (J)

vpc