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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.828/89

DATE OF DECISION:12.2.1992.

SHRI S.K. GARG

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

FOR THE APPLICANT SHRI B.K. AGGARWAL, COUNSEL

FOR THE RESPONDENTS NONE

JUDGEMENT (ORAL)
(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Heard.

None is present for the respondents. Mrs. Sheel Sethi, counsel for the respondents had last appeared on 2.5.1990. On 21.8.92 when the case came up the learned counsel for the respondents was not present. Shri B.K. Aggarwal, learned counsel for the applicant had then undertaken to contact the learned counsel for the respondents and the case was allowed to remain on board. On 30.1.1992, when the case came up again the learned counsel for the applicant submitted that he tried to contact Mrs. Sheel Sethi but could not do so and that her address is not available either in the office record or in the Registry. The Bench had considered the matter and ordered that a notice be issued to the respondents for final hearing on 12.2.1992. There is no indication on the part-C of the file if the Registry had issued the said notice in accordance with our said order. The learned counsel for the applicant, however, pressed that the matter should be heard, as he has been appearing in the Court for this case almost every day since it came on the board. We have perused the record and found that the claim of the applicant is only in regard to the interest on payment of full

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to him consequent to commuted value of pension paid /the applicant's absorption in a public sector undertaking. We also find that the respondents have filed a counter, which is on record. Accordingly, we decided to hear the learned counsel for the applicant and take into consideration the submissions made by the respondents in their counter-affidavit.

Shri B.K. Aggarwal, learned counsel for the applicant submitted that the applicant was working in the Central Salt & Marine Chemicals Research Institute - a Unit under the administrative control of C.S.I.R. He was sent on deputation to Bharat Heavy Electricals (BHEL) on 26.2.1979 where he was permanently absorbed w.e.f. 5.4.1980 vide order dated 22/24.9.1982. His retirement benefits were sanctioned by the respondents vide order dated 19.6/4.7.1985 which was received by the applicant on 14.9.1985 as per the endorsement on the said order. The necessary sanction was issued by the respondents, Central Salt & Marine Chemicals Research Institute on 28.12.1987, according to which the applicant was paid a sum of Rs.69,300/- being lump sum commuted value of pension as one time final payment. He was also paid an amount of Rs.13,508/- as D.C.R.G. as is indicated in his letter dated 23.4.1988 (page 13 of the paper book). The claim of the applicant is that he should be paid interest on the total amount of Rs.82,808/- from 5.4.1980 to 21.4.1988 when the actual payment was made at the rate of 12% p.a.

The respondents, however, have disclaimed all responsibilities for making any payment of interest, as no provision exists in the rules for payment of such interest. We also find from the counter-affidavit (page 29 of the paper book) that the applicant had conveyed his option for payment of retirement benefits only on 22.7.1985.

Having considered the submissions of the learned counsel for the applicant and the stand of the respondents

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as per the counter-affidavit, we are of the view that there has been inordinate delay in settling the case of the applicant. There was no reason for delaying the payment till 21.4.1988 after three months from the date on which the applicant exercised his option, indicating the form and manner in which he wanted the payment. Accordingly, we are of the view that he is entitled to payment of interest at 12% from 1.11.1985 till the date of actual payment viz. 21.4.1988 on the amount of lump sum commuted value of pension and the amount of D.C.R.G. received by the applicant. We order accordingly.

Another issue raised by the applicant is regarding the leave encashment. We find from Annexure R-1 to the counter (page 33 of the paper book) that when the applicant went on deputation, BHEL had not accepted liability for payment of leave salary contribution, in accordance with the rules. Apparently, the applicant himself was discharging this liability towards his parent department. In case he had done that in time, we direct the respondents to make payment of the leave encashment, as due to him, in accordance with the relevant rules. No interest, however, shall be payable on the amount of leave encashment. The respondents are further directed to implement the above orders as early as possible but preferably within 16 weeks from the date of communication of this order.

The O.A. is disposed of, as above, with no order as to costs.

Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

Oberoi
(T.S. OBEROI)
MEMBER(J)

February 12, 1992.