

NEW DELHI

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T.A. No. ~~XXXXXX~~

DATE OF DECISION 10.10.1988

Shri O.P. Vohra Petitioner

Shri M.D. Goyal Advocate for the Petitioner(s)

Versus

Union of India & Others	Respondent
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Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. S.D. PRASAD, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

(S.D. PRASAD)
MEMBER (AM)

(P.K. KARTHA)
VICE CHAIRMAN(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

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OA 1801/88

Date of decision 10/10/88

Shri O.P. Vohra

..... Petitioner

Vs.

Union of India & Others Respondents.

Shri M.D. Goyal

..... Advocate for the Petitioner

..... Advocate for the Respondent(s)

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (J)

THE HON'BLE MR. S.D. PRASAD, ADMINISTRATIVE MEMBER

(The judgment of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice Chairman(J))

The applicant, who has filed this application under Section 19 of the Administrative Tribunals Act, 1985 has prayed that interest at the rate of 18% per annum compounded at quarterly rates should be paid to him on the arrears of pension falling due to him from 1.4.1979 till the date of final payment by the respondents.

2. The applicant, who was working as Superintendent, Office of the Collector of Central Excise, Kanpur, retired with effect from 6th July, 1976 on his permanent transfer to B.H.E.L., Bhopal. It has been alleged that his pension was wrongly fixed at Rs.396/-per month instead

Rs.475/-per month. He filed a writ petition in the Delhi High Court. The High Court passed an order raising the pension to Rs.475/- per month and the applicant was paid arrears thereof. The pension was revised upward with effect from 1.4.1979 on the basis of Government of India, Ministry of Finance, Department of Expenditure, Office Memorandum dated 22nd October, 1983, according to which the applicant contends that he became entitled to a pension of Rs.569/- per month plus RIP as admissible from time to time. However, he was allowed a pension of only Rs.475/- per month. The applicant again moved the Delhi High Court with a writ petition for the grant of pension at the rate of Rs.569/- per month plus RIP thereof. The said writ petition was transferred to this Tribunal and by its judgment dated 3.7.1987, this Tribunal held that the applicant was entitled to increased pension at the rate of Rs.569/- per month plus RIP as admissible from time to time with effect from 1st April, 1979.

3. The respondents paid to the applicant on 1st February, 1988, the arrears of pension from 1.4.1979 to January, 1988 amounting to Rs.11,930/-. It has been contended that such payment was after an inordinate delay of 7 years and 10 months from the due date.

4. The applicant sent a legal notice on 9th May, 1988, to the respondents claiming interest at the rate of 18% on the arrears of pension falling due with effect from 1st April, 1979, till the date of payment. The respondents, however, have turned down his request vide their letter dated 3rd August, 1988 (Annexure-C).

5. The application was listed for admission on 23rd September, 1988, when the learned counsel,

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for the applicant submitted that the matter is fully covered by the various decisions of the Supreme Court including that of State of Kerala & Others Vs. Mr. Padmanabhan Nair, 1985 SCC (L&S) 278. In that case, there was a culpable delay in the settlement of pension and gratuity claims due to the respondent, who had retired on 19th May, 1973. His pension and gratuity were ultimately paid to him on 14th August, 1975, i.e., more than 2 years and 3 months after his retirement. The appellants put the blame on the respondents for delayed payment on the ground that he had not produced the requisite L.P.C. (last pay certificate) from the Treasury Office as required under the rules. The Supreme Court agreed with the High Court in its finding that the relevant rules cast a duty on the Treasury Officer to grant to every retiring Government servant the last pay certificate ^{which} in the case before the Court, had been delayed by the concerned officer for which neither any justification nor explanation had been given. In the circumstances, the Supreme Court held that the claim for interest was legally sustainable.

6. In our opinion, the aforesaid decision of the Supreme Court is of no assistance to the applicant in the present case. The admitted factual position in the present case is that there had been a dispute between the parties ^{on} ^{on} the quantum of pension payable. The issue had been taken to the Delhi High Court and to this Tribunal. Nothing prevented the applicant from claiming ^a in the pleadings filed in the High Court and this Tribunal. ^{not only} the enhanced pension according to his own calculations, but also penal interest thereon for delayed payment. There is nothing on record to indicate that while he moved the Delhi High Court or this Tribunal, he

on
/even interest

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specifically prayed for the grant of penal interest or/ on the amount due for the alleged delay in its payment. As already pointed out, the delay was due to the litigation between the parties. It cannot be said to be a glaring instance of "culpable delay" warranting payment of penal interest.

7. The Tribunal's judgment dated 3.7.1987 is silent on the question of payment of interest on the pension payable to the applicant. The judgment of the Tribunal is dated 3.7.87 and the respondents complied with the judgment of the Tribunal and revised ^{on} the pension ^{on} 18.7.1987.

8. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed in limine under the provisions of Section 19(3) of the Administrative Tribunals Act.

S.D. Prasad
(S.D. PRASAD) 10/10/88
ADMINISTRATIVE MEMBER

P.K. Kartha
(P.K. KARTHA) 16/10/88
VICE CHAIRMAN