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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. O.A. 72/88

Date of Decision 29.3.89.

Shri G.V. Chanana

....

Applicant

Vs.

Union of India

....

Respondents

CORAM :- Hon'ble Shri B.C. Mathur, Vice Chairman.

For the applicant

...

In person

For the respondents

...

Shri M.L. Verma, Advocate

This is an application under Section 19 of the Administrative Tribunals Act, filed by Shri G.V. Chanana formerly Assistant Executive Engineer in the Department of Telecommunication, who left the department on 15.9.85 to join the State Bank of India, New Delhi. No payment of pension and pensionary benefits has been made by the respondents. The applicant joined the Department of Telecommunication as Assistant Executive Engineer on 14.11.74 on the basis of combined Engineering Services Examination 1973 conducted by the Union Public Service Commission. He was promoted as Executive Engineer in 1978. Consequent upon his selection as Senior Assistant Engineer in the State Bank of India he joined that organisation on 16th Sept. 1979, after getting relieved from P & T Department. The applicant is deemed to have retired from the Central Government Service in terms of Rule 37 of CCS (Pension) Rules, 1972, and he is entitled to receive pension and terminal benefits according to this Rule. He seeks that as no pension and pensionary benefits has been paid by the Government, Tribunal may direct the respondents to immediately pay to the applicant pension w.e.f. 16.9.85 with interest both on pension and DCRG and other pensionary benefits like encashment of Earned Leaves and amount at his credit under the Central Government Employees Insurance Scheme.

2. The respondents in their counter have stated that

no cause of action has accrued in favour of the applicant as at the time of relieving the applicant from the Department he was a temporary employee and was not eligible to pension and pensionary benefits. However, he was confirmed as Assistant Executive Engineer by orders of the Department of Telecommunication on 3.5.88 retrospectively from 1.3.79. The respondents have stated that benefits to which the applicant is entitled, on being confirmed, will be paid to him as per rules but he was not entitled to pensionary benefits prior to 3.5.88. He is also not entitled to any interest charge on delayed payment as no payment was due to the applicant prior to 3.5.88.

3. The applicant has argued that he should have been confirmed long back when the vacancy was there in March 1979 itself. In fact before he left the department he wanted that his case of confirmation to be finalised. The department had informed him vide letter dated 2.9.85 (Annexure A-1) that the question of his retrospective confirmation was under consideration. Vide Annexure A-4 the Association of Direct Recruit Engineers was informed that orders on confirmation of the Assistant Executive Engineers (Civil) would be issued in the near future. The Chairman, P & T Board who was also Secretary of the Department of Telecommunication in a meeting held with Members of the Association on 20.3.84 (Annexure A-5) has confirmed that question of confirmation had already been taken up and orders were likely to be issued within a month. These orders were however, not issued till 3.5.88 and the applicant cannot be held responsible for this undue delay in issuing the confirmation order. Since the department had delayed in issuing the confirmation order, the applicant had claimed payment of interest on delayed pension and pensionary benefits w.e.f. December, 1985, leaving three months to the respondents to make final arrangements for making the payment after his joining in the State Bank of India in September, 1985.

4. The question of payment of pension and pensionary benefits to the applicant is not in dispute. Since he has been confirmed as Assistant Executive Engineer (Civil) w.e.f. 1.3.79 that is much before joining the State of India, the respondents should pay him all the pension and pensionary benefits due to him under the Rules. The question at the moment is only what interest should be paid to the applicant on these delayed payments. Respondents have not made any payment to the applicant so far, even after passing the order of confirmation of the applicant on 3.5.88. No explanation or any reasons have been given as to why the confirmation of the applicant which should have been done much earlier, in any way in 1984 according to the assurance given by the Secretary of the Department was not done in time. In the circumstances, the following directions are given:-

(i) The respondents should pay the pension and all pensionary benefits to which the applicant is entitled within a period of three months from the receipt of this order:

(ii) As there has been no culpable delay in the payment of pension by the respondents as the confirmation order itself was issued in 1988, the respondents will pay interest on the pension at the rate of 7% w.e.f. 15.3.86 and on the DRCG at the rate of 10% from that date. The interest rate on pension will be enhanced to 10% w.e.f. 3rd June 1988 till the actual payment is made.

5. There is no specific provision for payment of interest on pension. But this Tribunal in the case of T.S. Ramchandra Rao Vs. Union of India, ATR-1986-CAT-141 has held that although there is no specific provision for payment of interest on pension, that amount also being an amount to which the applicant was entitled and which was denied to him for no fault of his, the applicant must be compensated by way of interest.

6. The application is allowed. Parties will bear their own costs.

B.C. Mathur
(B.C. MATHUR)
VICE CHAIRMAN