

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 330/01166/2018

Allahabad this the 03rd day of November, 2020

Hon'ble Mr. Devendra Chaudhry, Member-A

Nand Lal Kushwaha Son of Shri R.B. Kushwaha, R/o House No. SA-17/144/15-M, Agrasen Nagar Colony, Pahariya, Varanasi.

Applicant

By Advocate: Mr. L.S. Kushwaha

Vs.

1. The Union of India through Secretary, Ministry of Communication, New Delhi.
2. The Chief Post Master General, Uttar Pradesh Circle, Lucknow.

Respondents

By Advocate: Mr. L.P. Tiwari

ORDER

In the present O.A., the applicant has prayed for grant of 18% interest on delayed payment of arrears of pay, leave salary, leave encashment, pension and all the other pensionery benefits w.e.f. 01.01.2009.

2. The facts of the case, as per the applicant, are that he was appointed as Postal Clerk in the year 1967 in the Postal department and qualified in the examination for the post of Inspector of Post Offices in the year 1974. He was thereupon promoted and posted in PS Group 'B' on 29.11.1995. He was superannuated on 31.05.2006.

4.2 That as per order of D.G. Post New Delhi 1-14/2008 PCC dated 04-11-08 the applicant was entitled to get grade pay of

Rs.5400/- in place of Rs.4800/- w.e.f. 01-01-2006 on completion of 4 years of continuous service in P S Group B, in Grade Pay of Rs.4800/- on 01-01-2006.

4.3 That the respondent No. 2 deliberately did not allow/approve the applicant for up gradation of grade pay from Rs.4800/- to Rs.5400/- in pay band of Rs.9300-34800/- on 01-01-2006 for the best reason known to him.

4.4 That however, the respondent No. 2 allowed the applicant for upgradation of Grade Pay from Rs.4800/- to Rs.5400/- w.e.f. 01-01-2006 vide his Memo No. STA/256-XA/Grade Pay 2015/1 dated 07.04.2017 and paid only principal amount of arrears but he did not pay the interest on delayed payments of arrears of pay, pension, gratuity, leave encashment and other retiral dues.

4.5 That the applicant paid upgraded pay of Rs.5400/- after lapse of more than 9 years from due date of payment i.e. 01.01.2009, hence the applicant moved an application dated 18.10.2017 before the respondent No. 2 with request to make the payment of interest on delayed payments of arrears due to up gradation of his pay. The photo copy of this application dated 18.10.2017 is being filed and marked as Annexure-1 with compilation No. II to this original application.

4.6 That the respondent No. 2 did not pay any heed upon the grievance of the applicant regarding payment of interest on delayed payments of pay, pension and other retiral dues in arbitrary manner, hence the applicant again moved a reminder dated 24.1.2017 but of no use.

4.7 That being aggrieved with the inaction of the respondents on the aforesaid applications in respect of payment of interest on delayed payments of pay and other retiral dues, the applicant filed

an O.A. 330/00260 of 2018 before the Hon'ble Tribunal Allahabad which was decided on 18.05.2018 with direction to the respondent No. 2/competent authority to decide the representation dated 18.10.2018 moved by the applicant within a period of 3 months from the date of receipt of certified copy of this order by means of speaking and reasoned order and decision so taken be communicated to the applicant. A photo copy of this judgment order is being filed and marked as Annexure-3 to this Original application.

4.9 That the application dated 18.10.2018 was decided by the respondent No. 2 vide his letter No. STA/256-XA/Grade Pay/2015/1 dated 27.09.2018 by which the demand of applicant regarding payment of interest on delayed payments of arrears of pay, pension, leave encashment and of other retiral dues was rejected by the respondent No. 2 on the plea that there is no any provision given in the Directorate's Communication No. 1/14/2008-PCC dated 04.11.2018. A photo copy of the aforesaid judgment order of the respondent No. 2 is being filed and marked as Annexure-5 to this Original Application.

4.11 That in respect of the payment of interest on delayed payment of arrears the applicant relies upon the judgment order of **Hon'ble High Court, Allahabad passed in case: - Service Bench No. 1517 of 2001 dated 08.02.2016.**

4.12 That in a similar case of **Govt. of Nct. Versus Nand Lal Singh, the observation of the High Court of Delhi on 04.09.2012** is as under.

4.13 That it is also submitted that applicant has not committed any fault on his part regard up gradation of grade pay of Rs.5400/- but it was due to fault committed by the respondents, the applicant was

paid the aforesaid arrears after a lapse of period of 9 years. The applicant is fully entitled to get interest on such extra ordinary delayed payment to mitigate the hardship suffered in depriving the applicant of right to receive the amount due to him within reasonable period.

3. Per contra, the respondents have contested the case by filing the Short Counter Affidavit in which it is submitted: -

4. That the applicant was appointed as temporary Clerk at Sultanpur on 16.06.1966. The applicant qualified IPOs Examination in the year 1974 as was placed under suspension w.e.f. 26.02.1975 to 20.12.1975. A disciplinary proceeding under Rule 14 of CCS (CCA) Rules, 1965 was initiated against the retired officer and same was finalized vide SPOs Mirzapur memo dated 24.04.1976. The applicant was awarded punishment of recovery of Rs.3,672/- and his suspension period was decided by Post Master general, Allahabad as duty for pension purpose only and not for all purposes vide memo dated 10.04.2007. After deciding his case, he was promoted in IPOs cadre in the scale of Rs.425-15-560-EB-20-640 and assumed the charge on 26.02.1977 at Banda.

5. That the applicant was order to be posted as CI, Banda vide Circle Office, Lucknow memo dated 05.07.1978. He assumed the charge of IPOs TSO, Allahabad with effect from 21.07.1978 in the pay scale of Rs. 425-15-560-EB-20-640. The applicant was promoted in ASPOs cadre w.e.f. 28.12.1988 and the pay of the applicant was fixed @Rs.1820/- w.e.f. 29.12.1988 in the pay scale of Rs.1640-2900/-.

6. That the applicant is an IPOs of 1974 batch. He was considered for promotion to the post of PS Group 'B' by DPC held in

October 1995 at the end of Directorate. At that time a disciplinary case was pending against him and he was charge sheeted under Rule 14 of CCS (CCA) Rules, 1965, therefore, the recommendation of the DPC was kept in a sealed cover. Thus, he could not get promotion.

Aggrieved by aforesaid decision, the applicant filed an Original Application No. 1443 of 1998 before this Hon'ble Court. This Hon'ble Court vide their judgment dated 18.08.2000, directed the Union of India to convene a meeting of Review DPC to consider the applicant for promotion to the post of PSS Group 'B' along with his juniors in 1995 and if found fit, he should be given promotion w.e.f. the date his juniors were promoted with all consequential benefits within a period of three months from the date of receipt of that order.

7. That the respondent department challenged the above order dated 18.08.2000, passed in Original Application No. 1443 of 1998, by filing a Writ Petition No. 15762 of 2001, before the Hon'ble High Court, Allahabad. The Hon'ble High Court, Allahabad decided the case in favour of applicant vide judgment dated 11.05.2006 and it was directed to modify the order of this Hon'ble Court dated 18.08.2000 and to open sealed cover containing recommendation of DPC held in October 1995, if the committee has recommended for his promotion then promote him from the date, juniors to him have been promoted and give him all consequential benefits admissible under the law within a period of one month from the date a certified copy of that order is presented.

In compliance with the direction of the Hon'ble High Court, Allahabad dated 11.05.2006, the sealed cover containing recommendation of DPC held in October 1995 in respect of

applicant was opened and the applicant was found fit, it was also decided to give promotion to the retired officer (applicant) from the date when his immediate junior has joined i.e. Shri Rohidas of Andhra Pradesh Circle, who was immediate junior of the applicant, was promoted and allotted to West Bengal Circle. Shri Rohidas joined on 29.11.1995 on his promotion post. The applicant has been retired from Government service on superannuation on 31.05.2006.

8. That the applicant knowingly after lapse of long period, vide his application dated 12.07.2016 (after more than 10 years of retirement) had represented to this office that he already completed 04 years regular service in PS Group 'B' cadre as on 01.01.2006 and therefore, he may be allowed Grade Pay of Rs.5400/- in place of Grade Pay of Rs.4800/-. The applicant also intimated that he worked in PS Group 'B' cadre w.e.f. 29.11.1995 to 31.05.2006. His case was decided and orders were issued on 07.04.2016 to grant up gradation of Grade Pay of Rs.5400/- w.e.f. 01.01.2006 inadvertently instead of 13.05.2006 on the date he became free from Vigilance angle.

11. That on re-examination of the case, it was found that the applicant assumed the charge in PS Group 'B' cadre on regular basis on 16.05.2000. He completed four years of regular service in PS Group 'B' cadre on 15.05.2004. Therefore, Vigilance clearance report was re-checked as per the facts narrated below: -

- (a) Disciplinary proceedings under Rule 16 of CCS (CCA) Rules, 1965 initiated against the applicant vide Circle Office, Lucknow memo dated 27.05.2005, was decided vide Circle Office memo dated 21.03.2006, awarding him the punishment of 'CENSURE'.

- (b) Disciplinary proceedings under Rule 16 of CCS (CCA) Rules, 1965 initiated against the applicant vide Circle Office, Lucknow memo dated 09.01.2006, was decided vide Circle Office memo dated 12.05.2006, awarding him punishment of 'CENSURE'.

A photo copy of letter dated 22.02.2017 is annexed herewith and marked as Annexure SCA-1 to this short counter affidavit.

Further, while examination of the case, it was found that the applicant was allowed to have been given Grade Pay of Rs.5400/- inadvertently on the plea of penalties awarded 'CENSURE'.

12. That as per Directorate's communication No. 1-14/2008-PCC dated 04.11.2008, the pay scale of PS Group 'B' officer on completion of 04 years of regular service is to be granted after due screening with regards to Vigilance clearance as under: -

Pre revised pay scale	Corresponding pay Band and Grade Pay approved by Government		Eligibility	Date from which to be given effect
	Pay Band	Grade Pay		
Rs.8000-13500	Rs.9300-34800 (PB-2)	Rs.5400/-	PS Group 'B' Officers who have completed 04 years of service as on 01.01.2006 in the pre-revised scale of Rs.7500-12000.	01.01.2006 after due screening from Vigilance Angle.

A photo copy of Directorate's letter dated 04.11.2008 is annexed herewith and marked as Annexure SCA-2 to this short counter affidavit.

Accordingly, the applicant was granted up gradation of Grade Pay of Rs.5400/- w.e.f. 01.01.2006 inadvertently instead of 13.05.2006 and orders were issued on 07.04.2017. The applicant was paid amount of arrear as per orders issued vide this office memo dated 07.04.2017.

As per the instructions contained in Directorate's communication dated 04.11.2008 (Annexure SCA-2 to this short counter affidavit) there is no such provision for payment of interest, therefore, point raised by the applicant was beyond rule. There is no rule for grant of compound interest on the arrears of pay. Accordingly, his representation dated 18.10.2017, was decided as rejected and therefore, speaking orders on the representation dated 18.10.2017 in pursuance to the orders dated 23.05.2018 passed in Original Application No. 260 of 2018.

(Devendra Chaudhry)
Member-A

/M.M/