



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A. No. 060/155/2019

(Order reserved on 18.02.2021)

Chandigarh, this the 24th day of February, 2021

HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Kamlesh Chauhan wife of Late Sh. R.K. Chauhan, Aged 63 years, retired Superintendent Post Office, Faridkot Division, now resident of House No. 75, Vikas Vihar, Phase I, Ferozepur City – 152002 (Punjab) (Group B)

.....Applicant

By Advocate: Mr. K.B. Sharma

Versus

1. Union of India through the Secretary, Ministry of Communications & Information Technology, Department of Posts, Dak Bhawan, New Delhi – 110 116.
2. Post Master General Punjab West Region, Chandigarh-160017.
3. Superintendent of Post Offices, Faridkot Division, Faridkot 151203.

.....Respondents

By Advocate: Mr. Sanjay Goyal

ORDER

AJANTA DAYALAN, Member (A):

1. The present OA has been filed by the applicant Kamlesh Chauhan, who retired as Superintendent Post Offices, Faridkot Division. In the OA, the applicant has sought interest @



18% p.a. on delayed payments of DCRG amounting to Rs. 13,11,057/-, commuted value of pension amounting to Rs. 15,31,951/- and balance amount of Leave encashment amounting to Rs. 4,72,359/- w.e.f. 01.11.2016 to the dates of their payment on 07.12.2018, 06.12.2018 and 15.11.2018 respectively.

2. The applicant was issued a charge sheet on 21.10.2016 (Annexure A-1) for major penalty while working as Superintendent Post Offices, Faridkot Division just ten days prior to her retirement on 31.10.2016. The allegation was that she transferred one Nirmal Singh to a post office where he had worked earlier and that this transfer was in violation of the instructions on the issue and that second time posting resulted in misappropriation of Government money amounting to Rs. 18,58,416/- by Nirmal Singh.

3. The applicant retired on 31.10.2016. Inquiry Officer submitted his report on 26.09.2017 wherein the charge against the applicant was not proved. The disciplinary authority found the same logical, based on record and oral evidence and decided to drop the charges vide its order dated 28.09.2018 (Annexure A-3). It was only thereafter that the applicant was released gratuity of Rs. 13,11,057/- on 07.12.2018, commuted value of pension amounting to Rs. 15,31,951/- on 06.12.2018 and balance of leave encashment amounting to Rs. 4,72,359/- on 15.11.2018.

4. The case of the applicant is that as the charges against her were not proved as per Inquiry Officer's report and



the same were dropped by order and in the name of disciplinary authority, she was not responsible for any delay in disbursement of her retirement dues. She was issued charge sheet only ten days prior to her retirement. She retired on 31.10.2016, but retirement dues were paid only in November, December 2018. Thus, there was a delay of over 25 months in the payment of her retirement dues.

5. The applicant also states that Rule 68 of CCS (Pension) Rules and Government of India decisions under Rule 77 whereby in cases where the Government servant on conclusion of the proceedings are fully exonerated, interest on delayed payment on retirement gratuity is to be allowed as gratuity is deemed to have fallen due on the date following the date of retirement (Annexure A-7). The Government decisions also provide that the interest on DCRG will be payable in cases DCRG is delayed beyond the period of three months from the date of retirement and at the rates applicable to GPF deposits.

6. In view of the above clear instructions of Government of India, the applicant has claimed interest on delayed payment not only on DCRG, but on the other dues at the penal rate of 18% p.a.

7. The respondents have contested the claim of the applicant. They have stated that the pension case of the applicant was sent to the office of Post Master General in March 2016 itself. But the same was returned to be sent according to the recommendations of 7th CPC. Hence, the whole case was again sent back after fixation of the case as per 7th CPC



recommendations vide letter dated 16.09.2016. Thereafter, due to pending charge sheet, pension case of the applicant could not be finalized; however, sanction memo for payment of provisional pension w.e.f. 01.11.2016 was issued on 24.11.2016 itself. Further, 40% amount of Leave encashment was also paid to her immediately after retirement on 30.12.2016 itself. CGEIS was also paid on 30.01.2017. It was only commutation of pension, gratuity and balance 60% amount of leave encashment that were paid in December 2018 due to pending disciplinary proceedings against her.

8. The respondent department has fairly admitted that the applicant is entitled to the payment of interest at the rates applicable to GPF deposit on retirement gratuity under provisions of Government of India decision No. (1) and (2) below Rule 68 of CCS (Pension) Rules, 1972 in view of dropping of disciplinary proceedings instituted against her. They have also stated that as per provisions of Rule 68(2), the competent authority has to sanction interest on delayed payment of gratuity and the case is being processed for such sanction.

9. I have heard the counsel of the opposing sides and have carefully gone through the pleadings. I have also given my thoughtful consideration to the matter.

10. I observe that the applicant retired on 31.10.2016. Prior to her retirement in October 2016 itself, she was issued a charge sheet. The inquiry was conducted and as per inquiry report dated 26.09.2017, the charges were not proved. The original disciplinary authority agreed with the findings of the



Inquiry Officer and forwarded the case to the President as the applicant had since then retired. Presidential sanction for dropping the charges was received vide order dated 28.09.2018 where-after all the balance retiral dues have been paid to the applicant in November-December 2018 itself as per her own admission. Overall, there was a delay of over two years in the payment of retiral dues due to pending charge sheet.

11. However, I observe that there was no intentional delay on the part of the respondents. There is no malafide attached. Even provisional pension was paid to the applicant immediately after her retirement and 40% of leave encashment was also paid immediately thereafter.

12. I also observe that Government of India instructions on the matter are very clear and have been quoted both by the applicant and the respondents. These clearly provide that in case of dropping of charges and where the employees are fully exonerated, interest is to be paid on DCRG at the rates applicable to GPF deposits in case the payment is made more than three months after retirement.

13. In the instant case also, charges were not proved against the applicant and were dropped. Hence, she is entitled for payment of interest on her DCRG for the period beyond three months.

14. Though the Government orders are specific to DCRG, the same situation will apply to the other payments as well, namely, balance of leave encashment and commutation of pension.



15. In view of above, the OA is partly allowed. The applicant is entitled for payment of interest beyond three months on delayed payment of gratuity, commutation of pension and balance of leave encashment. The rate of interest will be the rates applicable to GPF as there is no intentional delay on part of the respondents and there is no malafide.

16. There shall be no order as to costs.

(Ajanta Dayalan)
Member (A)

Place: Chandigarh
Dated: February 24th, 2021
ND*