

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 396 1985
T.A. No.

DATE OF DECISION 25.9.86

Shri Surinder Singh Anand Petitioner

Shri G.N. Oberoi Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

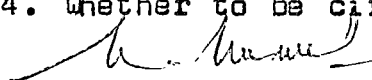
Shri A.D.Gaur, Admn. Officer ~~Advocate~~ Advocate for the Respondent(s)

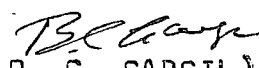
CORAM :

The Hon'ble Mr. Justice B. C. Gadgil, Vice-Chairman

The Hon'ble Mr. Kaushal Kumar, Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? - 49
2. To be referred to the Reporter or not ? NO
3. Whether their Lordships wish to see the fair copy of the Judgement ? NO
4. Whether to be circulated to all the Benches ? NO


(KAUSHAL KUMAR)
MEMBER
25.9.86


(B. C. GADGIL)
VICE CHAIRMAN
25.9.86

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. DA 396/86

25.9.86

Shri Surinder Singh Anand... Applicant
Vs.

Union of India & Ors. ... Respondents

Coram: Mr. Justice B. C. Gadgil, Vice-Chairman
Mr. Kaushal Kumar, Member

For the applicant Shri G.N.Oberoi, counsel
For the respondents Shri A.D.Gaur, Admn. Officer.

(Judgement of the Bench delivered by Mr. Justice
B.C. Gadgil, Vice-Chairman)

This is a very short matter regarding the interest on delayed payments which were due and payable to the applicant who retired from service on 30.9.85. The applicant claims that he is entitled to interest as payments were not made in time. The respondents have filed their reply raising certain preliminary objections. However, those objections appear to be worthless. It was contended that the applicant should have availed of all the remedies permissible to him under the Rules before approaching this Tribunal. We are not shown any provision which requires a pensioner to move an authority for the purpose of getting a redress for such delayed payments. It was then contended that under the Administrative Tribunals Act, an application can be filed only if there exists an order prejudicial to the applicant. In our opinion, this contention deserves to be mentioned only for the purpose of being rejected.

2. On merits, the respondents contended that all the payments have been made and that, therefore,

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no order for payment of interest is called for. We will mention as to when the various payments have been made to the applicant. The details are as follows:-

<u>Nature of payment</u>	<u>Date of payment</u>
(i) Leave encashment	3.7.86
(ii) G.P. Fund accumulation	20.6.86
(iii) Pension	16.10.85
(iv) Gratuity	16.10.85
(v) Revised/Final pension and gratuity.	16.7.86
(vi) Commutation of pension	16.7.86
(vii) CGEIS amount	11.11.85

It was vehemently urged by Shri G.N.Oberoi, counsel for the applicant that the above-mentioned payments are obviously delayed payments and that interest should be awarded at an exemplary rate. He relied upon the decision of the Supreme Court in the case of State of Kerala & Others vs. M. Padmanabhan Nair reported as AIR 1985 SC 356. It was a case of delayed payment of retirement dues. The suit in that respect was decreed with interest at the rate of 6%. The decree holder did not file any appeal for getting the amount with any enhanced rate of interest. The matter went to the State Supreme Court at the instance of the Government. The Supreme Court observed that the interest at the rate of 12% should have been granted from the expiry of two months from the date of retirement. However, no such an order was made as the plaintiff decree holder had not made a proper claim in that respect.

3. It is true that delay in payment of dues to the retired Government servant causes an embarrassment to him. It is also true that such a Government servant has to be compensated by payment of interest. But the question is what should be the rate. In the case before the Supreme

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Court there were no Service Rules which permit the payment of interest. In the present case the Government of India, Department of Personnel & Administrative Reforms have issued Office Memorandum No.7/3/84-Pension Unit, dated the 28th July 1984, prescribing the rate of interest on delayed payment of gratuity as 7% if the payment is delayed beyond 3 months and upto one year, while the rate is fixed at 10% if the delay is more than one year. This can be seen from page 116 of the book of Central Civil Services Pension Rules by Mr.Muthusway. In our opinion, this Office Memorandum would govern the rights of the parties. It will be very difficult to accept the contention of the applicant that the matter should be decided after ignoring it.

4. It will, therefore, be necessary to find out as to items on which the applicant is entitled to interest. Thereafter it will be necessary to see the rate of such interest. As far as leave encashment is concerned, the payment is delayed by more than three months but it is paid within one year. The pension has been revised and the revised pension accumulation thereof has been paid on 16th July 1986. We are also told that the amount of gratuity was paid on 16.7.1986. These are paid within one year but after the delay of 3 months. Hence the interest at the rate of 7% is admissible. As far as the Provident Fund accumulation is concerned, we are told that the interest is paid upto the date of disbursement i.e. 20.6.86, consequently, no further interest is permissible on this amount. The gratuity is paid on 16.10.85 within three months. Similarly, the pension(as was originally fixed) was being paid from 16th October 1985, therefore, no interest on this amount is permissible. Similarly, the CGEIS amount

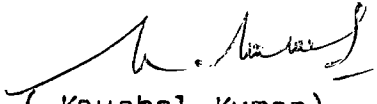
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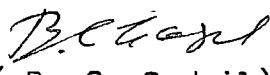
has been paid on 11th November 1985 i.e. within three months from the date of retirement. A portion of the pension was commuted from 16th July 1986. However, it is a common ground that the applicant has received the full pension till the date of commutation, therefore, there is no question of interest on the commuted amount of the pension.

5. After taking into account the details mentioned in the above-mentioned paragraphs, we direct that the respondents should pay to the applicant the interest at the rate of 7% on the following amount for the period mentioned against each of these items:-

Nature of payment	Period for which interest is to be paid.	
	From	To
(i) Leave encashment	1.1.86	3.7.86
(ii) Revised pension accumulation in addition to that already sanctioned on 16.10.85.	1.1.86	16.7.86
(iii) Revised payment of gratuity paid in addition to the one already paid on 16.10.85	1.1.86	16.7.86

The respondents are directed to make the necessary payments within a period of six weeks from today. However, we further direct that in case such payments are not made within the above-mentioned period of six weeks, the respondents are liable to pay further interest at the rate of 7% on the accumulated interest as discussed above. No order as to costs.


(Kaushal Kumar)
Member
25.9.86


(B. C. Gadgil)
Vice-Chairman
25.9.86