

Central Administrative Tribunal
Principal Bench: New Delhi

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Regn. No. OA-1606/87

Date of Decision: 8.6.90

Shri L.N. Malhotra

.... Applicant.

Vs.

Union of India & Ors.

.... Respondents.

For the applicant

.... Shri R.L. Sethi,
Advocate.

For the respondents

.... Shri P.P. Khurana,
Advocate.

CORAM:

Hon'ble Shri P.C. Jain, Member (Administrative).

Hon'ble Shri J.P. Sharma, Member (Judicial).

JUDGEMENT

(Delivered by Hon'ble Shri J.P. Sharma).

The applicant, Shri L.N. Malhotra, who at the relevant time, was Controller of Imports and Exports, moved this application after retirement from service, under Section 19 of the Administrative Tribunals Act, 1985, assailing the order dated 8.10.1987 passed by respondent No.1, Joint Chief Controller of Imports and Exports. The impugned order (Annexure A-1) was issued by Central Pay and Accounts Office to Pay and Accounts Officer, Delhi Administration, Delhi regarding the pension papers of applicant Shri L.N. Malhotra and in fact, it is the Pension Payment Order (P.P.O.). The applicant has assailed that order on the ground that the applicant was issued that order on 8.10.1987 while he retired from Government service on the afternoon of 31st March, 1983 and since the retiring benefits have been delayed, he is entitled to interest thereon.

2. The applicant has claimed the following reliefs:

- (a) Interest at current market rates on delayed payment of pension and gratuity falling due on 1.4.1983 till these payments are actually made.
- (b) Interest at current market rates on delayed payment of leave encashment;
- (c) Interest at current market rate on delayed payment of GPF of Rs. 16,633/- from 1.4.1983 to 30.9.1983 and till dat

d) Waiving of illegal recovery of Rs.2500/- + penal interest @ 13% p.a.

e) Release of all outstanding payments due and pending with Respondents particularly mentioned in paragraph 6 above.

3. The learned counsel for the applicant Shri R.L.Sethi, pressed for relief at (d) above. Regarding other reliefs sought for, the applicant had filed an O.A.331 of 1986 "L.N. Malhotra Vs. Union of India", through counsel Shri R.L. Sethi, in which the applicant sought the relief of finalisation of his pension and other pensionary benefits and release of the amounts with interest. The said O.A. was decided by the Principal Bench on 1.7.1987. In view of this also, the reliefs sought in this O.A. except the relief 'd' pressed by the learned counsel for the applicant, are barred by the principle of res judicata which is applicable to the proceedings before this Tribunal as held in 1990 Vol.I SLJ III page 461 (V.Rajamani Vs. General Manager, Southern Railways, Madras). Thus, the present application is really confined to waiving of recovery of Rs.2500/- alongwith penal interest from the applicant and only the facts relevant thereto are being referred to.

4. The applicant while in service, had applied for an advance of Rs.1500/- for Leave Travel Concession which was allowed but he did not utilise the amount and retired on 31st March, 1983. The case of the applicant is that he offered to refund that amount on 4.8.1983 but the respondents refused to accept the refund. Ex.A-10 is a letter addressed by the applicant Shri L.N. Malhotra on 4.8.1983 to Shri D.K. Bhattacharya, Assistant Chief Controller of Imports and Exports, Chandigarh enclosing a Bank Draft for Rs.2500/- of L.T.C. advance that he received on 21.2.1983 but could not avail of the same due to illness of his wife. The contention of the applicant is that L.T.C. advance is an interest free advance and that no interest should have been charged

particularly when he himself refunded it by means of a Demand Draft.

5. The respondents contested the application and in their reply they have stated that the applicant did send a Bank Draft for Rs.2500/- with the letter dated 4.8.1983 but that was not drawn in favour of proper authority and the same was returned to the applicant with the direction to deposit the amount under proper head of account. The amount has since been already recovered.

6. It is true that no interest is payable on L.T.C. advance but it is only if it is used for the purpose in accordance with the prescribed conditions. Admittedly, the journey was not performed and the advance was not refunded by him even at the time of his retirement. However, he offered to refund the amount vide his letter dated 4.8.1983 which was returned on 9.1.1984 (9.1.1983, mentioned in para 6.7 of the counter reply is obviously incorrect). Thus, in all fairness, interest should have been charged only for the period upto July, 1983, but the respondents have recovered an amount of Rs.1462/- as interest. The applicant is entitled to a refund of the excess amount of interest. The interest for the period from April, 1983 to July, 1983 at the rate of 13% per annum on Rs.2500/- comes to Rs.108.33 or say Rs.108. The amount charged in excess from the applicant, therefore, comes to Rs.1462/- minus Rs.108/- =Rs.1354. The applicant is entitled to a refund of this amount.

7. The O.A. is therefore, partly allowed with the direction that the respondents shall pay to the applicant a sum of Rs.1354/- which has been charged in excess within a period of one month from the date of receipt of a copy of this order. The OA is disposed of accordingly with no order as to costs.

J.S.Sharma
(J.P.Sharma)
Member (Judl.)

C. S. G. 1990
(P.C. Jain)
Member (Admn.)