

6

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: DELHI

Reon. No. OA 318/87

Date of Decision: March 23, 1990.

Shri R.L. Dhawan

... Applicant

vs

Union of India & Others

... Respondents

Coram

Hon'ble Mr Justice Amitav Banerji, Chairman

Hon'ble Mr B.C. Mathur, Vice Chairman(A)

For the Applicant

.. Shri B.S. Maine, counsel

For the Respondents

.. Shri O.N. Moolri

(Judgement of the Bench delivered by
Hon'ble Mr Justice Amitav Banerji, Chairman)

The applicant retired from service on 31st March, 1984. He has filed this Application complaining that he did not receive his pension, gratuity, commutation of pension, leave encashment, group insurance etc. within a reasonable period of time from the date of retirement and it has been delayed and he is entitled to be paid interest @ 18% per annum for the period for which the settlement dues of the applicant had been delayed.

The relevant facts are that the applicant retired as a Guard grade (A) in the Northern Railway from Saharanpur (UP). He was entitled, as per rules, the Death-cum-Retirement- Gratuity, pension, commutation of pension, leave encashment, group insurance etc. within a period of three months from the date of retirement.

These payments were not made to him within the aforesaid

4

period of time. He received the Pension Payment Order on 13.11.1984 i.e. after 7 months. He received Death-cum-Retirement Gratuity amounting to Rs.23,291.40 on 8.11.1984. He received commutation amount of Rs.34,156/- on 13.11.1984. The leave encashment amounting to Rs.4035/- was paid to him on 23.7.1986 and the group insurance dues on 11.5.1986.

In the reply filed by the respondents, it was stated that the payments of settlement were delayed due to administrative reasons. The pension payment voucher was issued by the Accounts Department on 29.8.1984 and D.C.R.G. was passed for payment on 19.10.1984. The commutation of pension was paid to the applicant vide order of the Sr. P.A.O., New Delhi dated 29.8.1984. Leave encashment had been paid on 6.3.1986 and 29.4.1986. The group insurance dues of Rs.664/- had been arranged as per order dated 31.3.1986. It was also stated that interest is due to be paid only in the case of detained payment of DCRG beyond three months and one year at the rate of 3% and 10% respectively. It was further stated that delay occurred due to administrative reasons and there was no intention to delay it. Lastly, it was stated that in the above case, the applicant is not entitled to the relief asked for though in principle he would be entitled to the relief prayed for. However, the extent of relief claimed was denied.

81

We have heard Shri B. S. Maine, counsel appearing for the applicant and Shri O.N. Moolri, counsel appearing for the respondents. Shri Maine referred to the case of State of Kerala vs M. Padmanabhan Nair (AIR 1985 SC 356) wherein their lordships held that the government has the liability to pay interest at the market rate till actual payment and the liability to pay penal interest on the dues on the current market rate commences on the expiry of two months from the date of retirement. Shri Maine also pointed out that the rate of interest for payment of DCRG beyond three months and one year was at the rate of 7% and 10% respectively. He also urged that the Supreme Court had been granting interest at the rate of 12% per annum on delayed payments. Shri Moolri contended by saying that unless there is mala fide intention, no penal interest is to be allowed. He stated that factually the delay is of a very short duration and that too for administrative reasons.

Having heard learned counsel for the parties, we are clearly of the view that retiral benefits should be paid to the government servant within a reasonable period of time so that he does not have to suffer for want of funds. Once an employee retires, his source of income ceases. He then becomes utterly dependent on his retiral benefits, like pension, DCRG, commuted pension, leave encashment etc. When he invests this amount, his income would start again. Any delay in making the

9

payment beyond the period of three months is bound to create hardships for the retired employee. It is for this reason that the government has provided for payment of interest at the rate of 7% and 10% where the delay is of more than three months and one year respectively. It is true that this rule is in respect of the payment of DCRG. An employee is entitled to the payment of his provident fund immediately after his retirement. In the case of State of Kerala vs M. Padmanabhan Nair (Supra) where their lordships held "pension and gratuity are no longer any bounty to be distributed by the government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

In the above case, there was a delay of more than two years and three months from the date of retirement and it was due to the non-production of the Last Pay Certificate of the retiree and the Court held that the delay was due to the lapse on the part of the Treasury Officer to issue the certificate under Rule 185 of the Treasury Code.

In the present case although the orders had been passed by the Accounts Officer earlier than the

date of actual receipt of the money but there was undoubtedly some delay. However, the delay in the present case is not much.

We have also considered arguments of the respective counsel for the parties. It appears that the delay occurred due to administrative reasons as stated in the reply of the respondents. It means that the delay was not on the part of the applicant. We think that it will meet the ends of justice if we allow the O.A. and grant the reliefs as stated under.

As far as DCRG is concerned, orders were issued on 19.10.1984 and the amount was received on 8.11.1984 by the applicant. The rules require the amount to be paid within a period of three months and thereafter the rate of interest is 7% upto a period of one year. Since the amount was paid within 7 months and 8 days of the date of retirement, exclusion of three months permitted under the rules has to be granted. Therefore, the applicant would be entitled to interest for a period of four months on the amount of gratuity at the rate of 7% per annum.

The applicant has complained that he did not receive the pension payment order in a reasonable period of time. There was some delay in issuing the Pension Payment Order. According to the respondents, P.P.O. was issued by the Accounts department on 29.8.1984. However, the applicant received the amount on 13.11.1984. There was a delay of four months in making the payment of

this amount excluding a period of first three months.

Interest may be calculated accordingly for four months at the rate of 12% per annum.

The commutation amount although passed on 19.8.1984 was not received by the applicant until 13.11.1984. There was not much delay in this matter, as it takes time to calculate the commutation amount. We decline to grant interest in this regard.

The payment of leave encashment amount was undoubtedly paid after two years of the date of retirement. The applicant will be entitled to interest at the rate of 12% per annum excluding the first three months. We are, however, not inclined to grant any interest in regard to Group Insurance payment.

We, therefore, direct the respondents to pay interest as indicated above to the applicant within a period of two months from the date of the receipt of a copy of this order. We order accordingly. There will, however, be no order as to costs. The C.A. is accordingly disposed of.

B.C. Mathur

(B.C. Mathur)
Vice-Chairman (A)

AB

(Amitav Banerji)
Chairman.