

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI.

O.A.No.407 of 1987.

Date of decision- 14th Sept.1989.

Virendra Prasad,
S/o Late Shri Ram Sunder Lal
Regional Provident Fund Commissioner,
West Bengal and Andaman and Nicobar Islands,
Calcutta.

Applicant

Vrs.

1. Central Provident Fund Commissioner,
9th Floor, Mayur Bhawan, Cannuaght Circus,
New Delhi- 1.
2. Regional Provident Fund Commissioner,
44, Park Street, Calcutta-16.

Respondents.

For Applicant

In person.

For Respondents

Mr. U.K.Chaudhary and
Mr. P.P.Khurana, Advocates.

C O R A M :

THE HONOURABLE MR. JUSTICE KAMALESHWAR NATH
VICE -CHAIRMAN

A N D

THE HONOURABLE MR. B.R. PATEL
VICE-CHAIRMAN.

(The following judgment of the Bench was delivered by
Hon'ble Mr. Justice Kamaleswar Nath, Vice-Chairman).

J U D G M E N T.

KAMALESHWAR NATH, VICE-CHAIRMAN.

This is ^{an} application under section 19

of the Administrative Tribunals Act, 1985. It is for recovery of an outstanding amount of commutation of pension and interest on various payments received by the applicant after a delay beyond the due dates.

2. We have heard learned counsel for the parties. It appears that the applicant was the Regional Provident Fund Commissioner, West Bengal, Calcutta and in his capacity as such, he had passed certain review orders in the matter of provident funds of certain employers which

were considered inappropriate and accordingly a departmental proceeding was started against him. In course of time, the applicant ~~has~~ preferred a Civil Writ petition before the Calcutta High Court which had been transferred to this Bench and registered as T-174/87 (Civil Writ petition No. 7184 of 1986). This T.174/87 was decided on 14.4.1988. It was found that the applicant ^{who was} ~~/~~ exercising quasi-judicial powers could not be held to be guilty of misconduct only on the ground of the benefits accrued to the employers as a result of the review orders. This Tribunal held the charge-sheet to be untenable.

3. Subsequently the Government withdrew the charge sheet itself by their order dated 9.3.1989.

4. The first amount which is claimed by the applicant relates to outstanding amount of commutation of pension. ~~He claims~~ ^A sum of Rs. 90,292/- ^{was} paid to the applicant on 24.5.1989, but according to the applicant, that amount is short by Rs. 5,982/-. The controversy is confined to application of commutation factor. According to the applicant, the commutation factor ought to have been 10.43 and according to the respondents, it should have been 10.13. The reason for applying the factor 10.13 is the delay in disposal of the disciplinary proceeding pending withdrawal of the charge sheet by order dated 9.3.1989. We are of the opinion that having regard to the nature of charges levelled against the applicant and the findings of this Bench in T-174/87, there was no justification for applying the factor 10.13 only for the reason of delay. An untenable reason of delay should not be allowed to stand in the way of an employee ~~in~~ getting his benefits. We therefore think proper that the commutation pension amount as admissible to the applicant should be calculated on the basis of commutation factor of 10.43, and the respondents will do so *within a period of 3 months.*

5. The next point of controversy relates to payment of interest on the entire amount of commutation of pension. The applicant who is pleading the case in person has produced before us an application dated 5.5.89 for commutation of pension in which the applicant has mentioned that the applications made by him earlier on 17.6.86,

5.11.86 and 14.6.88 have not been considered ^{because} ~~for which~~ he filed the aforesaid T.174/87 which hadⁿ been decided on 14.4.88. We should therefore think that the application made immediately after the decision of this Bench should be considered to be the appropriate application for the purpose of commutation of pension. On that basis we are of the opinion that the applicant should have been granted commutation on the basis of his application dated 14.6.88.

6. The applicant has referred two decisions in case of N.Mohapatra v. Union of India and others (A.T.R.1988(2) CAT-260 (Cuttack) and Shri T.S. Ramachandra Rao v. Union of India and others (A.T.R.1986 C.A.T.-141) which indicate that in certain events of delay in making payments of pensionary benefits, this Bench has upheld the liability of the Department to pay ~~the~~ interest. We see no reason to depart from those views. We, therefore, direct that on the appropriate commutation amount of pension, the applicant should be paid interest at the rate of 12% per annum simple according to rules with effect from 14.6.88.

7. The next item relates to interest on leave encashment. The amount was due as on 1.8.86 and the payment was made on 18.5.89. The leave encashment is also a part of rights accruing from conditions of service and therefore, as presently advised, we hold that the applicant should be paid interest on that item as well at the rate of 12% per annum.

8. The other item relates to interest on arrears of pay fixation. It is common knowledge that pay fixation or revision of scales of pay always takes time and the consumption of such time must be treated to be bona fide. We therefore do not think that such delay constitutes any default for which interest may be paid. This item is disallowed.

9. The last item relates to interest retirement travelling allowance. This item is not pressed by the applicant.

10. The application is disposed of accordingly. No costs.