

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 831/87 198 7
T.A. No.

DATE OF DECISION 2.2.1988

Shri Lilaram G. Bhatia

Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri P.P. Khurana

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

The Hon'ble Mr. Ch. Ramakrishna Rao, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao)
Judicial Member

S.P. Mukerji
(S.P. Mukerji)
Administrative Member

5

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. GA-831/87

Date: 2.2.1988

Shri Lilaram G. Bhatia

.... Applicant

Versus

Union of India & Ors.

.... Respondents

For the Applicant

.... Applicant in person.

For the Respondents

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

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.
Hon'ble Shri Ch. Ramakrishna Rao, Judicial Member.

(Judgement of the Bench delivered by the Hon'ble
Member, Shri S.P. Mukerji)

In this application dated 25th April, 1987 under Section 19 of the Administrative Tribunals Act, the applicant has challenged the impugned order, dated 9th April, 1985 (Annexure I to the petition) allowing voluntary retirement of the applicant ^{with effect from 31.3.85} and praying that he should be given pay and allowances for the period from 1.4.1985 to ^{9.4.1985} 9.4.1985. He has also claimed compensation for delay in the payment of ^{the} major terminal benefits of gratuity and commutation and for the expenses incurred by him for staying in Delhi for 2½ months after retirement. He has also prayed that the respondents be directed to pay him the amount of Rs.1,000/- withheld from his gratuity, cash equivalent of half-pay leave (Rs.2311.20), group insurance scheme dues (Rs.2500) and arrears of G.P. Fund (Rs.1200) along with 12 per cent interest from 1.4.1985.

2. The facts of the case are that after returning from Kenya where he was on deputation for five years on foreign service, when he could not be accommodated as Deputy Secretary even though he had ^{earlier} been included in the panel and his juniors had been so promoted while he was

abroad, on 24.3.1985 the applicant applied for retirement w.e.f. 31.3.1985. The respondents accepted the application but instead of issuing orders on or before 31.3.1985, they issued orders on 9.4.1985 (Annexure I) retiring him w.e.f. 31.3.1985. The applicant claims that since he was informed about his retirement ~~between~~ ^{on} 31.3.1985 and 10.4.1985, he is entitled to be on duty ^{between 31.3.85 and 9.4.85.} and claim pay and allowances for ^{his} ~~this~~ period. His representations were rejected. He has also challenged the withholding of gratuity, cash equivalent of half-pay leave, group insurance dues and balance of G.P.Fund. He has also claimed compensation for ^{his compulsive} over-staying in Delhi for processing the pension papers and the leave from 6.9.1984 to 31.1.1985 which he had to take as the respondents could not accommodate him as Deputy Secretary.

3. We have heard the arguments of the applicant and the learned counsel for the respondents and gone through the documents carefully. The first contention of the applicant is that he could not be retired w.e.f. 31.3.85 by an order passed on 9.4.1985. Accordingly, he claims full salary and allowances between 1.4.1985 and 9.4.1985. During the course of the arguments, the applicant conceded that he was neither on leave nor did he report to office for duty between 1.4.1985 and 10.4.1985 when he got the impugned order. The applicant ^{disqualified} ~~himself~~ ^{for this period} from pay and allowances by his own conduct of staying back home and even not applying for leave.

The fact that he had himself sought voluntary retirement w.e.f. 31.3.1985 and did not go to office after that day, shows that he had taken it for granted that his ^{request for} voluntary retirement ^{the} ~~had~~ been accepted and notice of three months

had been allowed to be curtailed. He had also himself signed the pension papers giving 31.3.1985 as the date of his retirement. In the circumstances, we cannot allow the applicant at this stage to turn back on his own conduct and request and claim to be in service even after 31.3.1985.

4. So far as withholding of Rs.1,000/- from his gratuity and Rs.2311.20 of cash equivalent of half-pay leave is concerned, the respondents have conceded that these amounts were withheld as 'No Objection' certificate from the Directorate of Estates was not available. They have admitted that the Directorate of Estates on 2.9.1987 determined an amount of Rs.1784.20 payable by the applicant. Thus, an excess of Rs.1526.80 (Rs.1527) remained unpaid to the applicant w.e.f. 1.4.1985 to the date of actual payment. This amount should be refunded to the applicant with 12 per cent rate of interest reckoned from 1.4.1985 till the date of actual payment. The balance of group insurance scheme of Rs.2560 has since been received by the applicant on 23.9.1987. So far as the balance of G.P. Fund is concerned, the applicant has admitted that he received the same on 28.4.1987. We see no reason why he should not be given the 12 per cent rate of interest on the arrears ^{for G.P. Fund between 1.4.85 and 23.9.87 and 4 G.P.F.} between 1.4.85 and 28.4.1987, if that interest has already not been paid to him in this amount.

5. So far as the applicant's claim of compensation for over-stayal in Delhi is concerned, we see no merit as an ^{employee} ~~applicant~~ has to process his pension papers and pursue the same at least for 2-3 months. The Government cannot take ~~upon~~ ^{on} the financial burden of maintaining a pensioner from the public exchequer till the pension is sanctioned.

It is, of course, true that if the sanction of pension is delayed, the pensioner is entitled to receive interest thereon. In the instant case, the pension was received by the applicant, who retired on 1.4.1985, as late as on 23.12.1985. We feel that he should be allowed 12 per cent rate of interest on the pension between 1.6.1985 (two months after his retirement) and 23.12.1985.

6. Since the applicant voluntarily applied for leave on medical grounds between 6.9.1984 and 31.1.1985, we see no merit in his claim of encashing this period of leave which, according to him, had been forced on him.

7. In the conspectus of facts and circumstances, we allow the application in part to the extent indicated below:-

(a) The excess amount of Rs.2560.80 withheld by the respondents from his gratuity and cash equivalent of half-pay leave, should be refunded to the applicant along with 12 per cent rate of interest reckoned from 1.4.1985.

(b) On the arrears of G.P. Fund of Rs.988/-, an interest at the rate of 12 per cent should also be paid to him between 1.4.1985 and

(c) 28.4.1987. Interest on the delayed payment of gratuity of Rs.2560.80 under Group Insurance Scheme, should also be paid at 12% till 23.12.85. Interest at the rate of 12 per cent be paid on the arrears of pension between 1.6.1985 and 23.12.1985.

(d) The aforesaid payments under (a), (b) and (c) should be made good to the applicant within two months from the date of communication of this order.

(e) There will be no order as to costs.

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao) 2/2/88
Judicial Member

S.P. Mukerji
(S.P. Mukerji)
Administrative Member