

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

CA NO. 1213/1987

DATE OF DECISION : 03.04.92

Shri R.L. Malhotra ... APPLICANT

VERSUS

UNION OF INDIA ... RESPONDENTS

CORAM:-

Hon'ble MR. J.P. SHARMA (J)

FOR THE APPLICANT Shri N.D. Batra, COUNSEL

FOR THE RESPONDENTS Shri K.C. Mittal, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY
HON'BLE MR. J.P. SHARMA, MEMBER (J))

The applicant in this case is a retired Assistant Collector of Customs and Excise. He retired from service on 28-2-1987. While in service, he was placed under suspension by an order dated 7-4-1986 on the ground that the disciplinary proceedings against the applicant is contemplated. But, till his retirement, no disciplinary proceedings has been initiated against him nor his suspension was ever reviewed as required under F.R.53. The applicant, therefore, retired from the service on superannuation while still under suspension. The applicant was placed under suspension at the instance of CBI and a FIR was registered by CBI against the applicant on 16-12-85 u/s.5(2) read with section 5(1)(e) of the Prevention of Corruption Act, 1947 on the allegation that the applicant had amassed a huge moveable and immovable assets in the name of his family members.

contd. 2.

The applicant prayed for the following reliefs:-

- i) that the pay of the applicant has to be refixed in the revised pay scale immediately and be given all the consequential benefits;
- ii) that the period of suspension of the applicant from 7-4-1986 to 28-2-1987 be treated as duty;
- iii) that the applicant be paid full retirement benefits including pension, gratuity, leave encashment etc.
- iv) that the applicant be paid interest at 18% on gratuity and other dues from 7-4-1987 to the date of payment;
- v) that the applicant be paid forthwith commuted value of pension as admissible under the Rules and lastly;

the cost of the application.

The respondents contested the application and stated that in regard to reliefs sought for in (i) and (ii) above that consequent to the order dated 9-10-1987, thereby, the disciplinary proceedings contemplated against the applicant were ordered to be dropped, the suspension of the applicant has been treated as period spent on duty from 7-4-1986 to 28-2-1987 for all purposes. The pay of the applicant has since been revised in the scale of Rs.2,200-4000 on the recommendation of 4th Central Pay Commission and he has also been paid arrears on 9-11-1987 amounting to Rs.16,823/-

In regard to the reliefs (iii) and (iv), it is stated that the applicant's pension has been revised to Rs.1710/- per month with effect from 1-3-1987 and a sum of Rs.57,750/- has been paid to the applicant by cheque on account of gratuity and the applicant has been paid a sum of Rs.25,452/- on account of leave encashment. He further stated that a sum of

Rs.71,557 on account of commuted value of pension is being paid to the applicant.

I heard learned Counsel for the applicant and none appeared for the respondents. The learned counsel for the applicant only prayed for grant of interest on gratuity and other dues from 7-4-1987 at the rate of 18% per annum on the basis of the claim placed in relief No.(iv). The learned counsel for the applicant has referred to the Government decision under note below Rule 68 of CCS Pension Rules, 1972 where the interest is to be allowed on the delayed amount of DCRG. The learned counsel for the applicant has also referred to the authority 1991 (12) 80C page 495 and 1987 in volume (b) 80C page 873 Y.P.Babu Vs. Union of India. In both these cases, the interest was allowed on DCRG because there was inordinate delay in the first reported case for a number of years and in the second case about 4 years. In the present case, the applicant reached superanuation on 7-4-1987, but, he was facing on criminal charges on investigation by CBI under Prevention of Corruption Act, 1947 and the matter was being investigated and the applicant has himself filed the final report accepted by the Special Judge by the order dated 9-4-1987. After this report was accepted, there was presidential order dt.9-10-1987 which goes to show that the disciplinary proceedings against the applicant were not initiated and are dropped on the basis of the order of the President referred to above. So, under rules, the applicant is entitled to award interest on DCRG, in view of the note (a) below Rules 68 of CCS Pension Rules, 1972. The respondents have not paid him the interest on this amount and only paid the gratuity. All these dues have been appeared to have been issued sometime in November, 1987. Thus, there is no inordinate delay and it cannot be said that

there was administrative lapse on the part of the administration in not according sanction for the aforesaid amount of DCRG. In any case, however, on the principle of natural justice, the applicant is allowed interest at the rate of 10% per annum with effect from 10-10-1987 i.e. the date when Presidential Order was issued dropping the contemplated disciplinary proceedings against the applicant. The interest will be paid till the date of actual payment of DCRG to the applicant in addition to the amount already paid.

The relief has also been claimed with respect to payment of interest on the leave encashment and other terminal benefits like pension, but there is no administrative instructions or statutory provisions to support the claim of the applicant. However, in the principle of natural justice and equity, I find that this is not a case where the applicant can be awarded interest on these amounts because it was not fault of the administration in not paying the amount in time, but, it was because of the criminal investigation under Prevention of Corruption Act, 1947 against the applicant which finally ended by acceptance of the final report by the Special Judge, Delhi, on 9-4-1987 and there after only, there was a presidential order dropping the contemplated disciplinary proceedings in October, 1987. The applicant was faced with the criminal charge of amassing wealth beyond his means while he was posted as Asst. Collector of Customs and Excise.

In view of the above circumstances, the application is partly allowed and only the applicant is allowed interest on the amount of DCRG from 10-10-87 till the date of payment at the rate of 10% per annum and the respondents to comply with the directions within a period of 10 weeks from the date of receipt of copy of this order.

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The other reliefs claimed by the applicant for
award of interest on other dues is disallowed.

No costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)

3.4.92