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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2017/90

Date of decision:11.10.1991.

Shri Moti Singh

....Applicant

Vs.

Union of India & Another

....Respondents

For the Applicant

....Shri G.D. Bhandari,
Counsel

For the Respondents

....Mrs. Avnish Ahlawat,
Counsel

COFAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DROUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The questions arising for consideration is whether there has been delay in the payment of pension and other retirement benefits to the applicant and, if so, whether he is entitled to payment of interest as claimed by him.

2. The applicant had challenged the order of his compulsory retirement on 26.8.1987 in OA 1831/87 filed in this Tribunal. The said OA was disposed of by judgment dated 13.7.1989 with the direction to the respondents to reinstate the applicant in service with effect from the date of his compulsory retirement with all consequential benefits including arrears of pay and seniority. The judgment also stipulated a period of 60 days from the date of receipt of the order/as the period for its implementation.

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3. The period of 60 days is to be reckoned from the date of receipt of a certified copy of the order from the Tribunal. In the instant ^{case}, a certified copy of the judgment was received in the office of the respondents through their counsel on 3.8.1989, though the applicant had served copies of the same on them on 26.7.1989. The time limit fixed by the Tribunal expired on 2.10.1989, treating 3.8.1989 as the date of receipt of certified copy from the Tribunal.

4. According to the applicant, though he was reinstated in service, there was delay in making some payments to him and some other payment have not been made to him. He has, therefore, claimed interest. The respondents have stated that there had been no such delay and that the claim for interest is not legally justified.

5. We have gone through the records of the case and have considered the rival contentions. On 29.9.1989, the respondents passed an order to the effect that the applicant should be deemed to have been reinstated in service w.e.f. 26.8.1987, i.e., the date of compulsory retirement with all consequential benefits and that he should be deemed to have retired on superannuation pension w.e.f. 31.8.1988.

6. It will be noticed that by the time the Tribunal had delivered its judgment in OA 1831/87 on 13.7.1989, the applicant had already attained the age of superannuation and, therefore, the implementation of the judgment would have meant only conferring of consequential monetary benefits to him.

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7. The judgment delivered by the Tribunal had to be honoured and implemented without any formal order being issued by the Administrative Department concerned and this is clear from Section 27 of the Administrative Tribunals Act, 1985. Any sum required to satisfy the judgment of the Tribunal is charged on the consolidated Fund of India, by virtue of Article 112(3)(f) of the Indian Constitution. Therefore, any delay in implementing the judgment is solely attributable to the respondents and the claim for interest for delayed implementation is legally justified.

8. The arrears of pay and allowances were paid to the applicant in four instalments on 30.10.1989, 30.11.1989, 15.1.1990 and 31.1.1990. The amount towards leave encashment was paid on 28.3.1990, the amount towards insurance on 2.5.1990, the gratuity amount on 16.5.1990 and the commutation of pension on 21.5.1990. According to the applicant, compensatory pay, bonus and conveyance allowance due to him had not been paid.

9. The applicant filed CCP 106/90 which was disposed of by the Tribunal on 5.9.1990. By that time, the above mentioned payments had been made to the applicant. The Tribunal observed that there was substantial compliance of the judgment and that if he felt aggrieved, he might file a fresh application in the Tribunal. This is how the present application has been filed in the Tribunal.

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10. From the counter-affidavit filed by the respondents, it appears that there was some delay in showing the applicant against vacant posts for the purpose of releasing the pay of the applicant and that the other matters were processed without delay. As regards conveyance allowances, their stand is that the applicant is not entitled to the same as he was not actually on duty during the relevant period. According to them, bonus for the year 1987-88 was paid to him on 25.10.1989 and that he was not entitled to it for the year 1988-89 as he had not served for six months in that financial year.

11. There is force in the contention of the respondents that the applicant is not entitled to conveyance allowance during the relevant period as it is intended to recoup the expenditure incurred on using the scooter for official duty and not as an accretion to the pay packet of a Govt. servant. The position in regard to bonus has also been satisfactorily explained by them. For the resultant delay in releasing the other dues to the applicant for which he was not responsible, we are of the opinion that he would be entitled to interest, as the money due to him remained with the respondents till it was actually paid to him. It was the duty of the respondents to send the outstanding dues to the applicant and not for him to visit their office for that purpose.

12. In the light of the above discussion, the application

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is disposed of with the following orders and directions:-

- (i) The respondents shall pay simple interest at the rate of 12% per annum from 2.10.1989 to the date of payment of outstanding dues to the applicant on account of (a) arrears of pay and allowances from 26.8.1987 till 31.8.1988;
- (b) gratuity; (c) leave encashment; (d) amount of insurance;
- (e) commutation of pension; and (f) compensatory pay for one month.
- (ii) The respondents may adjust the salary and allowances, for the months, if paid to the applicant along with the notice of compulsory retirement, as otherwise it would amount to double payment for the said period.
- (iii) The respondents shall comply with the above directions within a period of three months from the date of receipt of this order.
- (iv) The applicant would not be entitled to bonus for 1988-89 or to conveyance allowances as claimed by him.
- (v) There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 14/10/91
MEMBER (A)

P.K. Kartha
11/10/91
(P.K. KARTHA)
VICE CHAIRMAN (J)