

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

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DA. No. 1291/91

Date of Decision: 4.9.92.

Shri K.P. Dohare

Applicant

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Applicant in person

Vs.

Union of India & Ors.

Respondents.

Shri P.P. Khurana

Counsel for the respondents.

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes

2. To be referred to the Reporters or not? Yes

JUDGEMENT

(of the Bench delivered By  
Hon'ble Member Shri B.N.Dhoundiyal)

The applicant, Shri K.P. Dohare, retired as

Additional Industrial Adviser (Chemicals) from Directorate

General of Technical Development, Ministry of Industry,

New Delhi on 31.7.90, where he had worked continuously

since his joining the organisation as Assistant Development

Officer on 17.9.68. Prior to that he had worked in the  
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Meteorological Department from 1963 to 1968. He is aggrieved that payment of his pension, commuted pension, Gratuity, Leave encashment and Group Insurance contribution were unjustly delayed. He has prayed for quashing the orders dated 16.11.90 and 20.2.91 (Annexure-VII and Annexure-IX), rejecting his representation for payment of interest and has prayed for directions to the respondents to pay interest @ 14% for the period of delay.

2. According to the applicant, there was no justifiable reason for this delay. He had submitted all the pension papers along with necessary documents to Director(Admn.) DGTD, Udyog Bhawan on 5.4.90. His pensionary benefits and dues should have been paid to him from the day of his retirement i.e. on 31.7.90. However, he was paid his gratuity and the commuted amount of pension on 21.9.90, amount due for leave encashment on 1.10.90 and Group Insurance contribution on 9.10.90. The pension due from August, 1990 to October, 1990 was credited to his account only on 12.11.91. He had claimed Rs.3825/- as interest on late payment of pension and other retirement dues.

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3. The respondents have stated that the delay occurred due to non-verification of the service rendered by the applicant in the Meteorological Department from 1963 to 1968 i.e. before joining the DGTD. To cut short the delay, the Department accepted a written statement from Shri Dohare on 30.8.90 for this period as provided in Rule- 59(1)(iv) of C.C.S. Pension Rules, 1972 and the Pension payment order was issued on 12.9.90. The applicant received payment of gratuity before expiry of three months and is not entitled to any interest on this amount in terms of Sub-rule(1) of Rule 68 of C.C.S. Pension Rules, 1972. In regard to commutation of pension, Shri Dohare is eligible for full pension without deduction of commuted portion upto the date of the payment of capitalised value of commuted portion of pension as/ per (proviso (C) Rule 6 of C.C.S.(Commutation of Pension) Rules, 1981. Rules do not provide for interest on payment of leave encashment and insurance. Submission of a no demand certificate is a pre-requisite for these payments. Such a certificate was submitted by the applicant only on 18.9.90 and orders for payments of leave encashment and insurance were issued on 19.9.90. In any case, no orders provide for interest on delayed payment in case of these dues.

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4. We have gone through the relevant records of the case and heard the applicant in person and the learned counsel for the respondents. It is difficult to be persuaded by the argument of the respondents that interest would be payable only where the orders specifically provided for it. The Supreme Court has held in case of D.S. Nakra Vs. Union of India; AIR 1983 SC 130, that "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 decision of the Court valuable right vested in a Government servant and any delay in the disbursement, the payment should be made alongwith penalty of interest at current rate till the actual payment is made." Rule 58 of the C.C.S.Pension Rules stipulates that the Head of Department should undertake preparation of pension papers in respect of a retiring employee two years before his superannuation. Rule 60 and 61 provides for forwarding the pension papers to the Accounts Officer six months before the retirement. The thrust of the existing rules and instructions is that a retiring government servant shall be paid his dues on the date of his superannuation as per the Department of Pension and Pensioners Welfare OM.No.38/9/87, P&PW, dated 23.1.89/ Rules 59,60,61 CCS (Pension) Rules 1972. This was not done in this case.

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5. In the facts and circumstances of the case, the applicant is entitled to succeed and the applicant shall be paid interest on all delayed payment. Interest shall be paid at the rate of 12% per annum for the period of delay. The applicant shall submit a claim to the respondents on this basis and the respondents shall make the required payment after scrutinizing the claim, expeditiously and preferably, within one month from the date of receipt of his claim.

6. There will be no order as to costs.

B.N. Dhundiyal  
(B.N. DHUNDIYAL) 4/9/92  
MEMBER (A)

Aug 4/9/92  
(P.K. KARTHA)  
VICE CHAIRMAN (J)

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