

3
11
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1857/91

New Delhi this the 4th Day of January, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

S.B. Singh (dead)
through his legal heirs:

1. Mrs. Sharda Devi
Widow of Sh. S.B. Singh
2. Smt. Manju Lata
D/o Sh. S.B. Singh
r/o 7, Shri Krishna Puri,
Aligarh (UP) ...Applicants

(By Advocate Sh. B.L. Sharma)

Versus

1. Delhi Administration through
Secretary Education Department,
Old Secretariat, Delhi.
2. Director of Education,
Delhi Administration,
Old Secretariat, Delhi.
3. Dy. Director of Education (Delhi East),
Rani Garden, Gita Colony,
Delhi.
4. Chief Controller of Accounts,
Principal Accounts Office,
Delhi Administration, Mori Gate,
Delhi. ...Respondents

(By Advocate Sh. M.K. Gupta, proxy for Mr. B.S. Gupta,
Advocate).

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

Shri S.B. Singh, a retired employee of the
Education Department under the Delhi Administration (since
deceased) has filed this O.A. seeking the following reliefs:-

"a) For the release of his pension (after due
fixation of his pay), commuted value of pension,
Death-cum-retirement Gratuity, Leave encashment, Group
Insurance dues etc. without further delay.

b) For payment of interest @18% p.a. or any other
higher rate which may be admissible on the above amounts as
there has been no delay on the part of the applicant in

✓

- 2 -

(2)

submitting papers and complying with the various formalities. The delay has been caused entirely by inaction and negligence on the part of Administrative Authorities."

The applicant died on 18.11.93. MA-665/94 was filed on 11.2.94 by the legal Heirs for substitution of their names, along with copies of death certificate and a certificate of the District Magistrate, Aligarh that two persons mentioned therein are the heirs of the deceased. The M.A. was not opposed by the respondents on 24.10.94. Hence, the names of the legal heirs have been brought on record. The deceased employee is referred to as the applicant hereinafter.

The applicant's case is that he retired on 31.7.89. He submitted the pension papers on 4.1.89 which were forwarded by the Principal of the School where he was working to the third respondent. Though the applicant had been reminding the authorities concerned, and a legal notice was also sent, he did not hear anything from them until on 7.6.91 the Directorate of Education, i.e., the second respondent, sent him a letter (Annexure-17) informing him as follows:-

"I am directed to say that after scrutinising your Pension Forms it is found that the pension forms are incomplete. So, you are requested to submit the following pension forms (duly filled in) immediately, to process your pension case:-

1. Form-I3 copies (for commutation of pension)
2. Form-53 Copies (the form-5 which you submitted is incomplete and old one)
3. Bank Option for drawing pension....4 copies,
4. Nomination for D.C.R.G.....2 copies,
5. Nomination for Commutation of Pension....2 copies
6. Declaration regarding refund of excess payment 2 copies
7. Declaration regarding Military service2 copies.

Yours faithfully,
sd/-
(Amar Dass)
Administrative Officer(G.C.C.)"

Admittedly, this was complied with on 14.6.91.

3. Subsequently, the dues were paid to him as follows:-

(2)

contd ... 3

Pension	16.9.91
Commututed value of pension and DCRG from	10.9.91
Leave Encashment	28.10.91
Group Insurance	4.11.91

4. The applicant is, therefore, at present interested in his claim for interest @ 18% for the delayed payment.

5. The respondents have filed a reply contesting this claim. It is stated that the applicant did not submit complete pension papers before his retirement which were completed by him only on 14.6.91. They also have a case that the pay of the applicant as T.G.T. (Selection Grade) was found to be wrongly fixed and so the case of fixation of pay was reviewed and the pay was fixed accordingly, resulting in a recovery of Rs.480/- plus allowances, which the officer did not deposit with the Government till date. He did not file a declaration regarding refund of excess payment. This amount was withheld from his D.C.R.G. and the pensionary benefits were paid to him. The respondents also state that the concerned PAO reminded the applicant through the Principal of the concerned School on 7.8.89 and reminders dated 8.6.90 and 14.3.91. It is therefore contended that the applicant has been paid his dues within a reasonable time of his submitting complete pension papers. He is not entitled to any interest, as claimed by him.

6. We have heard the learned counsel for the parties. The learned counsel for the applicant pointed out that it was, ^{for} the first time on 7.6.91 that the respondents wanted him to submit various forms and information, as

U

mentioned in the letter dated 7.6.91, reproduced above, which he complied with promptly. Some of the requirements of this letter are already covered by the provisions of the rules and, therefore, there was no need for getting this additional information or additional declaration. He refers to Rule 73 (3) of the C.C.S. (Pension) Rules, 1972 - Rules for short - which authorises deduction from the D.C.R.G. of any over payment made in respect of matters other than Government accommodation. Likewise, Rule 53(3) requires the Government employee to make nomination for pension, D.C.R.G. etc. after joining service. It is his case that the respondents need not have taken so much of time to merely obtain from him what they required in their letter dated 7.6.91. Respondents have been vested with the responsibility to initiate the pension case, well in time (Rules 59 & 60) which they failed to do.

7. The learned counsel for the respondents, on the other hand, points out that the applicant was directed to contact the Additional D.E. (Admn.) to expedite his pension case. In this connection he refers to the D.O. letter (Annexure-X) - received by the applicant on 12.9.90 - addressed by Sh. S.S. Harit, Joint Director to Sh. R. Narayana, Additional D.E. (Admn.), a copy of which was endorsed to the applicant, advising him to contact the aforesaid official. It is because full information was not given and the applicant gave complete forms only in June, 1991 that the dues were released immediately thereafter.

8. We have heard the parties. We are unable to appreciate the stand taken by the respondents. If all that was necessary was to obtain the forms and declarations, as mentioned in the Annexure-XVII letter dated 7.6.91, in order

(9)

15

to finalise and release the pension and other dues, we are unable to comprehend why this request was sent to the applicant as late as on 7.6.91. It is admitted that the applicant had submitted his pension papers on 4.1.89, allegedly in an imperfect condition. It is precisely for this reason that the rules provide that the authority concerned should obtain these forms from the pensioners sufficiently early. Rule 59 mentions the stages of completion of pension papers. It obliges the Head of Office to obtain the Form-5 - one of the Forms mentioned in the letter dated 7.6.91, 8 months prior to the date of retirement. In any case, the applicant, on his own, had submitted these forms sufficiently early to enable the authorities to point out any mistake therein or to call for fresh forms. The very fact that apart from the requirements pointed out in the letter dated 7.6.91 - which was complied with by the applicant in 7 days - there was no hitch, clearly shows that no delay can be attributed to the applicant. Indeed the Annexure-10 letter of the Joint Director referred to above to the Additional D.E. (Admn.) points out that the letter has not submitted the pension case of the applicant despite the letter dated 19.3.90 and reminders on 26.4.90 and 22.6.90.

9. We are of the view that this is a clear case of delay on the part of the respondents. The applicant having retired on 31.7.89, it is only reasonable to expect that he should have been paid his dues, if not immediately thereafter at least within a period of three months, i.e., on or before 31.10.89. Inasmuch as the payments have been delayed even thereafter, the applicant is entitled to the payment of interest which is the only issue subsisting in this OA on the delayed payment.

(16)

10. Accordingly, we dispose of this OA with a direction to the respondents to pay interest @12% per annum in respect of the delayed payments made to the applicant, the delay being computed from 1.11.89 until the payments ~~were~~ ^Q actually made. In so far as the arrears of pension are concerned, the delay is to be calculated for pension for each month. We wanted to indicate the quantum by specifying a simple formula. As this may or may not represent the amount due, on second thoughts, we feel that the payment should be calculated for the number of months, for which each month's pension is delayed, which alone would be fair to both parties. These are simple formulae to calculate this. Ordered accordingly.

11. The payment of interest as computed above shall be made to the legal representatives within a period of three months from the date of receipt of this order. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

N.V. Krishnan
4.1.95

(N.V. Krishnan)
Vice-Chairman(A)

'Sanju'