

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * * *

13

Date of Decision: 27.X.82.

DA 2118/91

SHRI VIJAY KUMAR

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN (J).
THE HON'BLE SHRI I.P. GUPTA, MEMBER (A).

For the Applicant ... SHRI B.B. RAVAL.

For the Respondents ... SHRI P.H. RAMCHANDANI.

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

JUDGEMENT

(DELIVERED BY HON'BLE SHRI RAM PAL SINGH, VICE CHAIRMAN (J).)

The applicant was an I.A.S. Probationer in the Lal Bahadur Shastri National Academy of Administration, Mussoorie (U.P.) for a period 1.9.82 to 31.5.83 and 1.6.84 to 31.8.84. During the said period i.e. from 1.6.84 to 31.8.84 an amount of Rs.12,700/- towards the amount of Special Pay and TA advance, excess was recovered from the applicant by the said Academy by their letter dated 2.6.91. As the same amount was received from the Maharashtra State by the Academy, the

Lambh

said amount realised from the applicant was directed to be refunded to the applicant, and by its Annexure-A, the Academy regretted the delay in refunding the amount very much. The applicant addressed a letter on 5.3.91 to the Director of the said Academy in which he pointed out that he was entitled to be paid the said amount alongwith the interest i.e. accrued to him for the period from 9.8.84 to 20.2.91. It is for the payment of the interest to the applicant by the respondent that he has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 and has prayed for the relief that the respondents be directed to pay to the applicant a compound interest on said amount of Rs.12,700/- at the rate of 24% p.a. for the period from 9.8.84 till the date of the payment.

2. The respondents appeared on notice and filed their counter in which they raised the preliminary objection of the jurisdiction of this Tribunal and also contended that the OA has been filed for the payment of interest and only it can be done through a Civil Suit under the Interest Act of 1978. They also contended that the Allahabad Bench of the Central Administrative Tribunal has the jurisdiction. Inter-alia, they maintained that there is no provision in Govt. rules for the payment of the interest and prior to his filing of the representation on 5.3.91, the applicant never raised the demand for payment of the interest. They

lambly

also contended that this amount was refunded to the applicant as the same amount was received from the Maharashtra State to whose cadre the applicant belongs. As the Maharashtra State made the payment, the amount was returned to the applicant and the delay in returning it was regretted. In the end they maintained that the applicant was informed by the Academy by their letter dated 6.5.91 that it was not possible to make payment of the interest as there was no provision in the Govt. rules for payment of the interest in such cases. They further raised the ground that the Civil Accounts Manual, published by the Ministry of Finance, Department of Expenditure, Comptroller General of Accounts, there is no provision for the payment of interest in such cases. The applicant filed rejoinder to the counter reiterating his earlier stand.

3. We have heard the learned counsel for the applicant Shri B.B. Raval and Shri P.H. Ramchandani, counsel for the respondents.

4. In support of his contention, the learned counsel for the applicant relied upon the case of Krishna Prasad Sinha Vs. UOI (1982 (2) SCC 497). In this case, the Hon'ble Supreme Court directed the payment on the pension due and also the arrears of salary alongwith the subsistence allowance which was ordered to be paid by the High Court. Nowhere in this judgement has been laid that on delayed payment the

interest should be charged. This case, dealt with the question of contempt when inordinate delay occurred in making payment of pensionary benefits. Another case cited by the learned counsel for the applicant is the case of State of Kerala vs. M. Padmanabhan Nayer (AIR 1985 SC 356). In this case, the Apex Court fixed the liability on the delayed payment of the dues of the Govt. employees, which were the retiral benefits and were due to him. They maintained that pension and gratuity are no longer any bounty and they should be paid within a period of two months. If the payment is not made for more than two years after the retirement of the Govt. employee, the direction for payment of interest was justified.

5. The claim in this OA is for the payment of the interest on the amount which the applicant has already received. It is after the receipt of this payment that the applicant made a demand for the payment of the interest also on that amount. The interest on payment of money is paid either on the basis of the contract or by way of damages if there is a wilful malafide, negligence, on the part of the other party in making the payment. It has also to be seen whether there are any statutory provisions for the payment of interest in such a situation. Interest on money is the legal profit or recompense on loans of money to be taken from the borrower by the lender. Interest is payable stipulation made for the loan or use of money. Interest is also the compensation

Lam 115

which is paid by the borrower of the money to the lender for its use and generally by a debtor who is credible in recompense for his detention of his debt. Similarly interest at common law; Legal damages or penalty in detention of money. The present prayer with regard to the money does not pertain to the situations enumerated here-in- above.

6. When the applicant deposited the amount with the Academy there was no contract or stipulation by the parties that the Academy is liable to pay any interest on the amount charged from the applicant. When the matter was clarified by the Maharashtra State, the amount lying with the Academy was refunded back to the applicant. In absence of a contract it cannot be said that the applicant suffered any damages on account of retention of money by the Academy. Merely retention of the amount without any malafide or any breach of any statutory rules does not call in the award of damages in the shape of interest. The delay cannot be attributed to any negligence, leave aside wilful negligence to these agencies such as Academy, Maharashtra State, Pay & Accounts Offices of the organisations.

7. Tortuous element in this transaction is also absent. Thus, no tortious liability can be fastened upon the Academy even if there was a delayed payment on their part to the applicant. The learned counsel for the respondents Shri *Lalith*

JG

P.H. Ramchandani also drew our attention towards the provisions of the Interest Act of 1978. In this Act, a debt has been defined under Section 2 which means any liability for an ascertained sum of money and includes a debt payable of any kind but it does not include a judgement debt. If the amount of the applicant was lying with the Academy it cannot be said that it was a debt. Under Section 3 of this Act, the powers have been given to the courts for allowing the interest on the debt or the dues. The debt are also of various kinds, which can be created either by written instrument or by way of tortuous liability. Such a situation is not present in this case. Section 4 of this Act provides that interest can be paid under certain enactments also by the orders of the court. No enactment in this regard has been brought to our notice by the learned counsel for the applicant.

8. Thus, the amount deposited by the applicant with the Academy is neither a debt nor under any contract. There is complete absence of malafide on the part of the Academy. No statutory provision has been brought to our notice that the applicant is entitled to interest on such amount, more so when the said amount stands paid already before filing of case claiming interest. It is also not a case of delay in payment of pension which is considered a fundamental right of an employee.

Finally

9. Consequently, we are of the view, that this case has no merit and it is dismissed with no orders as to costs.

I.P. Gupta
(I.P. GUPTA) 27/10/92
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN (J)