

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.3124/91

Date of Decision : 18.12.92

Shri G.D.Dhingra, Legal Heir of Late
Shri Rattan Lal Dhingra

...Applicant

Vs.

Union of India & Ors.

...Respondents

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Hon'ble Shri B.C. Jain, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Sh.R.P. Oberoi

For the Respondents

...Sh.R.S. Aggarwal

JUDGMENT

(Delivered by Hon'ble Shri J.P.Sharma, Member (J))

The applicant's father late Shri Rattan Lal Dhingra was employed in the clerical cadre in the Income Tax Department, who filed Original Suit No.374/82 in the Court of Sub Judge, Delhi which was transferred to the Principal Bench of the Central Administrative Tribunal and registered as TA 21/86. This TA was disposed of by the judgment dt.19.5.1987 and the respondents were directed that late Shri Rattan Lal Dhingra be paid terminal gratuity and pension from the date he was prematurely retired. He shall also be entitled to payment of interest at 7% from 3 months after the date of retirement upto 9 months and 10% p.a. thereafter till the date of actual payment. Shri Rattan Lal Dhingra was paid a sum of Rs.12,699 as

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gratuity and arrears of pension amounting to Rs.52,874, but he was not satisfied and there was some grievance regarding not calculating the correct period for payment of gratuity and also not allowing interest as ordered in the judgment of the Tribunal on the arrears of pension. Late Shri Dhingra, therefore, filed contempt petition before the Principal Bench in CCP 212/90. Late Shri Dhingra died on 16.5.1991 and was survived by the applicant and another son Shri Pradeep Kumar Dhingra besides two married daughters, namely Mrs. Vijay Laxmi and Vinay Chawla. There was some other case pending in the Tribunal where the other legal representative has given authority to the applicant to pursue the matter and they would have no interest in the estate of the deceased, Shri Rattan Lal Dhingra. The present application, therefore, has been filed by the applicant in which he has prayed for the amount of interest calculated @7% for 9 months for the period from 6.5.1976 to 5.2.1979 and thereafter at 10% p.a. for the period from 6.2.1979 to 30.11.1987 on account of interest for delayed payment of pension arrears of Rs.52,874. He has also claimed further interest on this amount for delayed payment. He has also prayed in the OA another sum of Rs.1439 towards gratuity, but the same has been given up by the learned counsel while pressing the application on merits seeing to the counter filed by the respondents.

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2. The respondents filed a very short reply and took the preliminary objection about the maintainability of this application and stated that the application is without merit as the gratuity and pension as admissible under the Rules have already been paid. The pension amount of Rs.52,874 was paid in September, 1988 and gratuity was paid on 24.5.1988.

3. We have heard the learned counsel for both the parties at length and have gone through the record of the case. The learned counsel for the respondents, Sh.R.S.Aggarwal either from his counter or by oral arguments could not justify non-payment of interest as ordered by the Tribunal by the judgment dt.19.5.1987 in TA 21/86 filed by the father of the applicant. In fact, the reply filed by the respondents does not touch this point at all. It only says that an amount of Rs.52,874 being the arrears of pension have been paid in September, 1988. When the respondents have not come with the specific date and the mode of calculation of payment, then the averment in the OA as highlighted by the learned counsel for the applicant has to be accepted. The only hurdle remains that the applicant's father had filed CCP for non compliance of the directions of the Tribunal in TA 21/86, but the photocopy of the order passed therein goes to show that the learned counsel representing the deceased father of the applicant gave a statement

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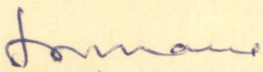
that the contempt petition no longer survives and so he did not press the contempt petition and he has prayed for withdrawal of the contempt petition, which was dismissed as not pressed. The learned counsel for the applicant pointed out that since more than a year has passed, so he could not go in contempt again against the respondents and has filed the present Original Application because the cause of action of non-payment of interest has arisen after the disposal of TA 21/86 on 19.5.1987. In view of this fact, the objection taken by the learned counsel for the respondents has no basis.

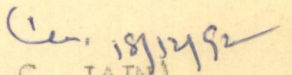
4. The learned counsel for the respondents did not argue any further nor could show from the record that the applicant is not entitled to the relief claimed for, regarding interest on the arrears of pension nor he could show any calculation that the amount of interest was included in the amount of pension paid to the deceased father of the applicant.

5. In view of the above factual position, the application is to be allowed, but no further interest can be allowed on this delayed payment of pension because the applicant or his father have not come at opportune time for grant of the relief, prayed for. The application is, therefore, partly allowed and the respondents are directed to pay interest @7% from 6.5.1976 to 5.2.1977

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and afterwards @10% p.a. till 30.11.1987 on the arrears of pension amounting to Rs.52,874. The respondents shall comply with the above directions within a period of three months from the date of receipt of a copy of this judgment. In the circumstances, the parties shall bear their own costs.


(J.P. SHARMA)
MEMBER (J) 18.12.92


(P.C. JAIN)
MEMBER (A)