

15

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA. No. 2210/2004

New Delhi, this the 29th day of September, 2005

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

R.G. Agarwal,
C/o Shri A.K. Tayal,
C-33, Ashok Nagar (Phase III),
New Delhi.

... Applicant.

(By Advocate Shri Amit Dubey)

Versus

1. Union of India
through Secretary,
Ministry of Defence,
105, South Block,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters, Kashmir House,
New Delhi.
3. Garrison Engineer (South),
Meerut Cantt.

... Respondents.

(By Advocate Shri R.N. Singh)

O R D E R (ORAL)

By this O.A. applicant has sought direction to the respondents to award interest on the delayed payment of pensionary benefits paid to the applicant. It is stated by the applicant that while he was working as Supervisor B/S I in the office of Garrison Engineer (South), M.E.S. Meerut Cantt, he was arrested on 7.4.1995 on a complaint under Section 304-B IPC due to suicide committed by his daughter-in-law. Accordingly, he was placed under suspension vide order dated 10.4.1995. Subsequently, applicant was released on bail, on 21.12.1995 and he requested for revocation of his suspension but his request was rejected after over 7 months. Being aggrieved, he filed O.A. 1410/1996, which was disposed of vide order dated 23.12.1996 by directing the respondents to treat the representation of the applicant as an appeal under Rule 23 (1) of the CCS (CCA) Rules and dispose of the same, in accordance with law by a speaking order. Pursuant to these directions, his said appeal was rejected



vide order dated 17.2.1997 even though in identical situation, Shri S.D. Jindal, AAO from CDA (Army) posted at Meerut was granted revocation of suspension. 16

2. Applicant retired from service on 31.7.1997 but he was paid encashment of leave only after a period of one year while his gratuity was released after two years even though his pension could not have been stopped. His criminal case had got nothing to do with his service. The action of respondents in not releasing his pensionary benefits was absolutely unwarranted. Therefore, he gave a representation, on 23.8.1999 followed by reminders and it was only then that though he was paid interest of Rs.25,599/- on the gratuity amount vide order dated 11.10.2001 but his representation for interest on other items was finally rejected on 22.12.2003, that too without giving any reasons. Therefore, he had no other option but to file the present O.A.

3. Respondents have opposed this O.A. They have submitted that under Rule 68 of the CCS (Pension) Rules, interest is admissible only on the delayed payment of gratuity and the interest, amounting to Rs.25,599/-, on the delayed payment of gratuity has already been paid to the applicant. No interest is payable on the delayed payment of pension/commuted value of pension or on the delayed payment of leave encashment under Government of India's Decision No. 5 (2) (1) below Rule 68 of the CCS (Pension) Rules. They have explained that applicant was suspended w.e.f. 7.4.1995 vide letter dated 10.4.1995, in terms of sub-rule(1) of Rule 10 of the CCS (CCA) Rules. He retired from service w.e.f. 31.7.1997. His suspension case was finalized after retirement as per instructions of Govt. of India dated 22.6.1987 (Annexure R-2). Since a criminal case was pending against him, he could be paid only provisional pension as per Rule 69 and no gratuity could be paid until the conclusion of the proceedings. They have filed an additional affidavit also to show he was paid an amount of Rs. 8,350/- on account of CGIE, on 6.10.1997, amount of Rs.9,312/- on account of GPF, on 16.9.1997 and provisional pension @ Rs.976/- on 11.11.1997 w.e.f. 1.8.1997. Hence, the gratuity was withheld for want of clearance of court proceedings. It was informed by the applicant only on 7.6.1998 that he was acquitted by the court. Accordingly, necessary orders for revocation of suspension of the applicant w.e.f. 31.7.1997 were passed regularizing the period of suspension vide order dated 22.6.1998. Thereafter, supplementary pay bill was prepared by the concerned office and sent to CDA, Meerut on 29.6.1998 for



Rs.61,498/-, which was paid to applicant, on 5.7.1998. Similarly, revised LPC was initiated vide order dated 30.6.1998 and gratuity amounting to Rs.1,22,133/- and commutation of pension amounting to Rs.1,61,796/- were paid to the applicant on 13.7.1999. The interest on gratuity amounting to Rs.25,599/- for the delayed period has been paid vide Corrigendum dated 4.10.2001. They have thus prayed that the O.A. may be dismissed.

4. I have heard both the counsel and perused the pleadings as well. It is an admitted position that applicant was suspended due to his involvement in a criminal case for suicide committed by his daughter-in-law. He challenged suspension which has been disposed of by directing the respondents to treat his O.A. as appeal and decide the same by a reasoned order. Thereafter, his O.A. was treated as appeal and was rejected vide order dated 17.2.1997 (Annexure R-6). If applicant was aggrieved by the said order, he ought to have challenged the same. Admittedly, the said order was not challenged by the applicant. Therefore, he continued on suspension till 31.7.1997 when he retired on attaining the age of superannuation. Therefore, now it is not open to the applicant to suggest that his suspension ought to have been revoked. His suspension was reviewed and he was given subsistence allowance upto 75% as is admissible under the Rules. He informed the authorities about his acquittal in the criminal case only on 7.6.1998. Accordingly, necessary orders were passed regularizing his suspension period and bill was raised to make him the payment as per the revised LPC. All those payments have been made within a reasonable period and since those orders could be passed only after he was acquitted in the criminal case, he cannot claim interest on the payments made to the applicant on account of revised LPC, etc. on his acquittal in the criminal case. Under Rule 68 of the CCS (Pension) Rules, interest is required to be paid on gratuity in case ultimately an employee is exonerated in the criminal case by treating it as if gratuity had become payable from the date of his superannuation. Therefore, respondents have themselves worked out the interest on gratuity and have already made the payment of Rs.25,599/- As far as interest on other amounts is concerned, it is seen that applicant had retired on 31.7.1997. He was paid CGIES on 6.10.1997 and GPF amount on 16.9.1997, that is within three months from the date of his retirement. Therefore, he is not entitled to get any interest on the said



payment. It is made clear under the Govt. of India instructions that no interest is payable on the delayed payment of pension/commuted value of pension. Since applicant gets full pension as provisional pension on the basis of what he was getting at the time of retirement, he could not have got commutation in view of criminal case pending against him. Similarly, there is no provision under the CCS (Leave) Rules for payment of interest on leave encashment, as encashment of leave is granted under the CCS (Leave) Rules. Leave encashment is not the pensionary benefits. Therefore, applicant is not entitled to get any interest under both these headings as well.

5. However, from the counter filed by the respondents, it is seen that even the provisional pension was paid to the applicant only on 11.11.1997 even though applicant had retired on 31.7.1997. Under Rule 69 of the CCS (Pension) Rules, even if a person is involved in a criminal case or a departmental proceeding is pending against him, the provisional pension is to be paid immediately. It is mandatory. Under Government of India's Decision under Rule 69, it is reiterated that under no circumstances, the provisional pension should be withheld. Therefore, at least the provisional pension ought to have been given to the applicant immediately after his retirement. No justification has been given by the respondents as to why his provisional pension was delayed by over three months. Since this delay is neither explained nor is justified, therefore, respondents are directed to give interest to the applicant @ 6% on the amount of provisional pension paid to him from 1.8.1997 till 10.11.1997 as he ought to have been given the provisional pension w.e.f. 1.8.1997 itself. This shall be done within a period of two months from the date of receipt of a copy of this order.

6. With the above direction, this OA stands disposed of. No order as to costs.


 29/9/05
 (MRS. MEERA CHHIBBER)
 MEMBER(J)

'SRD'