

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A No. 2536/2004

New Delhi this the 29th day of August, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

Smt. Neelam Chauhan,
Wd/o late Shri Virender Pal Singh,
R/o Vill & PO Khorl.
Distt. Rewari (Har)

.... Applicant.

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India
through
The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Chief of the Army Staff,
Army Head Quarters, Sena Bhawan,
New Delhi.
3. The Commandant,
Base Workshop Group EME,
Head Quarters, Meerut Cantt.
4. The Commandant,
505 Army Base Workshop,
Delhi Cantt-10.

... Respondents.

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

By this O.A., applicant has sought directions to the respondents to grant arrears of pay and allowances as per the order dated 2.1.2003 passed by the appellate authority and all other consequential retrial benefits deeming the husband of the petitioner died in harness. She has further sought a direction to release all the payment with 18% interest and heavy costs.

2. It is submitted by the applicant that her husband was compulsory retired in a disciplinary case vide order dated 13.11.1999, on the ground of unauthorized absence. Applicant's husband had filed O.A. No. 1656/2000, which was decided



on 14.5.2002 whereby the penalty orders were quashed and set aside and respondents were directed to reinstate the applicant in service within one month and pass appropriate orders relating to the intervening period from the date of compulsory retirement to the date of reinstatement in accordance with the fundamental rules within a period of two months from the date of receipt of a copy of the order. Unfortunately, before this order was passed, applicant's husband expired, which fact could not be brought on record by either side, therefore, the applicant, who is a widow of the late employee filed MA No. 1614/2002 and 1615/2002 to modify the order dated 14.5.2002. After hearing both the sides, the order dated 14.5.2002 was modified on 29.10.2002, whereby applicant was allowed to be substituted in place of her husband and the direction to reinstate the applicant was removed as he had died in the meantime. Accordingly, the respondents were directed to pass appropriate orders relating to the intervening period from the date of compulsory retirement till the date of his death i.e. on 29.3.2002.

3. In compliance of the Court's directions, respondents passed an order on 2.1.2003 whereby the intervening period from the date of compulsory retirement from service i.e. 30.11.1999 till the date of the employee's death i.e. 29.3.2002 ^{held to be 28} was treated as duty for all intents and purposes. The applicant was ^{held to be 28} entitled for full pay and allowances, to which he would have been entitled prior to the date of compulsory retirement till the date of his death and the period of absence was directed to be regularized by grant of leave as admissible to him (page 10). Grievance of the applicant in this case is that even though this order was passed as back as on 2.1.2003, yet neither she was paid the pay and allowances nor the retrial benefits were paid to her, therefore, she had no other option but to file the present O.A.

4. Today when the matter was called out, counsel for respondents submitted that after the O.A. was filed, applicant has been paid an amount of Rs.2,34,269/- only on account of arrears of pay and allowances, on 9.3.2005 while an amount



of Rs.87,612/- has been paid on account of DCRG in May, 2005, therefore, this O.A. has become infructuous.

5. Counsel for the applicant further submitted that since applicant has been dragged to the court unnecessarily and the amounts have been paid to her after a gap of over many years even after the order of payment was already issued by the respondents themselves, respondents should be directed to pay the interest for delayed payment. He also invited my attention to the counter affidavit wherein no justification was given as to why so much delay has taken place for payment of arrears and gratuity to the applicant, except saying that matter was referred to the audit but local audit officer did not admit the payment for want of sanction of Government or the claim of DCRG was turned down by Area Accounts Officer again for issue of sanction of Government of India.

6. Once respondents had issued the order dated 2.1.2003 wherein it was clearly mentioned that the applicant, namely, Smt. Neelam Chauhan is entitled for full pay and allowances and the period was decided to be regularized as leave admissible to the applicant's husband, it could not have taken more than about 2 years to release the payments to the applicant. From the counter filed by the respondents, they have only harped on sanction to be issued by the Headquarters, which, of course, is an internal matter of the department and simply because respondents preferred to take their own sweet time in issuing the sanction as required by the local audit officer, applicant was forced to knock the doors of justice for receiving the payment which was already held to be due to her. Moreover, there is absolutely no justification as to why the DCRG was not paid to the applicant particularly when there was no dispute of her being the wife of late employee. In these circumstances, I am satisfied that this OA needs to be allowed by directing the respondents to give interest to the applicant on the delayed payments @ 9% per annum w.e.f. 2.4.2003 i.e. three months after the order dated 2.1.2003 was issued till it was actually paid. The interest should be calculated and statement of the same should be given to the applicant along with



the amount of interest money within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, this O.A. stands allowed. No order as to costs.


(Meera Chhibber)
Member(J)

'SRD'