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**Central Administrative Tribunal  
Principal Bench, New Delhi.**

OA-2593/2004

New Delhi this the 11<sup>th</sup> day of April, 2005.

**Hon'ble Mr. Shanker Raju, Member (Judl.)**

Sh. P.K. Sarin,  
R/o 492/Block K.G-1,  
Vikaspuri,  
New Delhi.

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Applicant

(through Sh. Zakir Hussain, Advocate)

Versus

1. Union of India through  
Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.
2. Director General,  
Central Public Works Department,  
Nirman Bhawan.
3. Chief Engineer,  
NDZ-IV  
East Block-1,  
Level-III, R.K. Puram,  
New Delhi.

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Respondents

(through Sh. N.K. Aggarwal, Advocate)

**O R D E R**

Through this OA applicant impugns respondents' order dated 18.10.2004 denying him interest on the arrears of pay.

2. Applicant while working as Assistant Engineer was implicated in criminal case and was placed under suspension in 1991. On 28.10.2002 Hon'ble Court of Special Judge CBI Tis Hazari Delhi acquitted the applicant which has attained finality and on representation, suspension of

the applicant was revoked on 29.01.2003 without any order as to the consequential benefits. This led to filing of OA-471/2003, which was disposed of on 03.03.2003 with a direction to the respondents to dispose of the representation. When no orders have been passed, CP-240/2003 was filed which led to an order passed on the representation on 01.09.2003 stating that as the appeal against the acquittal is pending before the Hon'ble High Court of Delhi, CP was dismissed on 09.09.2003.

3. OA-2401/2003 filed by the applicant was disposed of on 09.02.2004 with a direction to the respondents to pass a reasoned order for promotion and arrears.

4. By an order dated 12.03.2004 it was declared by the respondents that delay in termination of criminal proceedings was not attributable to the applicant.

5. On filing Contempt Petition No.174/2004 by the applicant, he received GPF amount of Rs. 6,34,107/- but without interest. This led to filing of the present O.A.

6. Learned counsel of the applicant states that by resorting to the following decisions, the respondents have committed a contumacious act by stating that the Tribunal has not issued any direction regarding interest and as the decision has already been taken to grant interest vide their letter dated 29.7.2004 in the files denying interest with delay in finalisation of criminal case which has been initiated on the behest of the respondents is not attributable to the applicant. Interest from 1991 till 31.05.2004 shall be paid to the applicant:-

(i) O.P. Gupta Vs. U.O.I. (AIR 1987 SC 2257)

(ii) Vijay L. Mehrotra Vs. State of U.P. (AIR 2000 SC 3513)

7. On the other hand, respondents' counsel vehemently opposed the contentions and stated that in the light of directions of the Tribunal, a reasoned order has been passed denying the interest and while resorting to the decision of the Apex Court in U.O.I. & Ors. Vs. Dr. J.K. Goel (1995(30) ATC 614) and Commissioner of Income Tax, Bombay Vs. T.P. Kumaran (1996(10)SCC 561) it is stated that there exists no statutory rules for grant of interest in pay and allowances, the same is not permissible.

8. In the rejoinder, applicant distinguishes the above decisions.

9. On careful consideration of the rival contentions of the parties, it is trite law that interest is always payable as per statutory rules e.g. Rule 68 of Pension Rules on delayed payment of retiral benefits. However, while disposing of OA-2401/2003 respondents have been directed to pass a reasoned order as regards the grievance of interest. By an order dated 18.10.2004, applicant has been denied interest on the ground that there is no mention of interest rate and in normal circumstances no interest on pay and allowances is admissible and there is no justification for payment of interest on account of regularisation of suspension.

10. It is trite law that suspension is not a punishment. If a person is involved in a criminal case, pending trial in a corruption case one is to be placed under suspension. FR 54(b), which deals with treatment of suspension of clear acquittal envisage grant of full pay and allowances. I have not come across any provision whereby interest on pay and allowances pursuant to treatment of suspension period is made admissible. It is also trite law that interest is to be accorded on delayed payment. Though the delay in conclusion of the trial is not attributable to

the applicant yet we find that one Sh. S.K. Awasthi who was co-accused with the applicant has not been placed under suspension and with the result he was not only paid the entire salary but no income tax, he was accorded interest on GPF etc. The same has not happened with the applicant but his clean acquittal entails interest from the date of acquittal as during the pendency of criminal trial, there is no question of his suspension being regularized in any manner whatsoever. In J.K. Goel's case when arrears of salary and interest thereof were in issue, as no equity was found in favour of the respondents, the claim was rejected. In T.P. Kumaran's case as relief was not claimed in the earlier OA, the same has been ordered by issue of constructive res judicata.

11. In U.O.I. Vs. Jaipal Singh (2004(1)SC SLJ 105) on reinstatement on the basis of acquittal from criminal charge what has been ordered is back wages from the date of acquittal in the criminal case.

12. Having regard to the above analogy, from 1991 to 2002 applicant was placed under suspension facing criminal trial full pay and allowances would not have been admissible because of pending criminal trial and by operation of statutory rules and law, since the applicant was acquitted from the criminal charge on 20.08.2002 and there is no outcome of the appeal, the applicant is entitled for payment of his dues and treatment of period as spent on duty which has been done subsequently in 2004 and this non payment would entail interest but to accord interest to the applicant from 1991 when he was placed under suspension, the delay in disbursing this amount is not at all attributable to the respondents as by implication of law they are constrained not to pass an order treating the period as spent on duty. The judgment cited by the applicant in O.P. Gupta's case applies only when the arrears are delayed.

13. For want of any rules providing interest on arrears of salary assuming the equity lies in favour of the applicant yet the applicant was due for arrears only when he was acquitted from the charges and the period from 1991 to 2002 would not entail any interest, as the acquittal would not relate back for that purpose.

14. However, one should not loose sight of the fact that during the period from 1991 to 2004 when the applicant was placed under suspension the PF accumulated entails interest as in the case of Awasthi who was not placed under suspension.

15. In the above view of the matter, for the reasons recorded, claim of the interest of the applicant since 1991 is rejected. However, O.A. is partly allowed directing the respondents to pay simple interest @ 12% p.a. on the arrears from 20.11.2002 i.e. 3 months after the judgment of the Trial Court till it is actually paid to the applicant. Respondents shall also pay interest on GPF of the applicant @ 12% p.a. This shall be done within a period of three months from the date of receipt of a copy of this order.

No costs.

*S. Raju*  
(Shanker Raju)

Member(J)

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