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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO 1044/2004

New Delhi this the ^{2nd} November, 2004

**HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER(A)**

Shri S.N.Bhargava S/o Shri J.N.Bhargava,
Chief Commissioner of Income Tax (Retd.)
304, Fancy Society, 19, Vashundra Enclave,
Delhi-110096.
(By advocate: Applicant in person)

...Applicant.

Versus

1. Union of India,
Through Secretary,
Ministry of Finance,
North Block, New Delhi.
2. Chief Commissioner of Income-Tax,
CR Building, New Delhi.
3. Zonal Accounts Officer,
Central Board of Direct Taxes,
N-Block, Vikas Bhavan, New Delhi.

...Respondents.

(By Advocate: Shri V.P.Uppal)

ORDER

By Shri S.A.Singh, Member (A):

The applicant, who retired from the post of Chief Commissioner of Income-tax on 30.9.2002, is aggrieved by the delay in payment of DCRG and seeks relief in the form of interest on the delayed payment of gratuity of Rs.3.50 lacs. The case of the applicant is that the authorization letter for payment of gratuity was issued by the Chief Commissioner of Income tax (respondent no.2) on 14.9.2002 and bill for payment was submitted to the Zonal Account Officer on 14.11.2002 and the payment of the gratuity

[Signature]

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was made to the representative of the applicant on 8.1.2004, i.e. more than three months after the date of retirement, which is due date for payment of gratuity.

2. The applicant pleaded that payment rules requires payment of interest if payment of gratuity has been authorized later than its payment becomes due. The applicant made a representation to the respondents no. 2 and 3 for payment of interest which remain un-replied.

3. The applicant pleaded that as per Rule 68 of the CCS (CCA) Pension Rules, if payment of gratuity has been authorized later than the date when its payment becomes due, interest shall be paid at such a rate as may be prescribed and in accordance with the instructions issued from time to time. As per Memorandum dated 25.8.1994 if payment of DCRG has been delayed beyond three months from the date of retirement then interest at the rate applicable to GPF deposits will be paid to retired/dependants of deceased Government servants. Hence he is entitled to interest. Moreover as per Rule 59(2) of the CCS (CCA) Pension Rules action under Clauses (a), (b) and (c) sub rule (1) has to be completed eight months prior to the date of retirement of the Government servant, which was not done by the respondents in the case of the applicant. The applicant relying upon the case of *SR Bhanrale vs. Union of India*, 1997(1), AISLJ, 14; *Dhirendra Narayan Das Vs. Union of India & Ors.* 2001 (1) ATJ CAT (Guwahati) 579 and *Dr. Durga Dass Vs. The Chief Secretary, Govt. of NCT of Delhi* 2003 (3) ATJ (PB), 522 has also prayed for interest and cost.

4. The respondents have contested the claim of the applicant stating that there was no undue delay for payment of gratuity. According to Government of India instructions dated 25.8.1994, the interest become payable at the rate applicable to GPF deposits, if the

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payment of gratuity is delayed beyond a period of three months from the date of retirement. DRCG was disbursed through cheque to the applicant on 18.12.2002 which was before the expiry of the period of three months from the date of retirement i.e., 30.9.2002. Hence, no interest is payable.

5. The respondents claimed that the authorization for payment of gratuity was issued on 14.9.2002 which was much earlier than the date of retirement. Thus, the case of the applicant is not covered under the provisions of Rule 68 of CCS (Pension) Rules. Further the cheque for gratuity was issued by the Account Officer on 18.12.2002 though received on 8.1.2003. The gap between the date of issue of cheque and the date of receipt by the applicant is simply the time in transmission ~~time~~ and this is not solely attributable to the respondents. Respondents have also stated that there were certain Govt. dues payable by the applicant, i.e., the interest on House Building Advance and leave travel concession advance availed by the applicant. These were disputed by the applicant and the issue could only be settled after consultation with the ZAO Bhopal. This whole exercise took considerable time and that is why the cheque for retirement gratuity could be only issued by 18.12.2002. They further stated that all other retiral payments (excepting retirement gratuity) were made to the applicant promptly. The delay in payment of retirement gratuity is not entirely attributable to the Govt. because it is the duty of the Govt. servant to clear all the outstanding Govt. dues well in time, which was not done by the applicant. Still the cheque for retirement gratuity was issued before the expiry of three months from the date of retirement. Hence no interest is payable.

6. We have heard the applicant, counsel for respondents and have perused the documents placed on record. The facts are not in dispute. The payment of gratuity was authorized on 14.9.2002 and cheque was issued on 18.12.2002, this was received by the

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applicant on 8.1.2003. The case of the applicant is that the cheque should have been paid within three months. Hence there is a delay for which respondents were liable for payment of interest.

7. The applicant has relied upon Rule 68 of the CCS (Pension) Rules which is as under:

“(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.”

8. According to the applicant, Rule-68 (ibid) stipulates that authorization for payment of gratuity later than its payment becomes due, i.e., 30.9.2002 in the case of the applicant when interest was payable. The cheque dated 18.12.2002 was received by the applicant only on 8.1.2003. Hence interest was due.

9. Respondents on the other hand have stated that the authorization for payment was made on 14.9.2004 which was before payment became due. As per Rule 68 (1) and as per instruction in OM dated 24.8.94 interest is payable if payment is delayed beyond three months. It reads as under:

“(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits: 1. It has been decided that where the payment of DCRG has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits will be paid to retired/dependants of deceased Government servants.”

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We find that the authorization for payment of gratuity was given on 14.9.2002, i.e. before the date of retirement. Though the cheque was prepared on 18.12.2004, i.e. after the date of retirement. The applicant received the cheque on 8.1.2003 which is three months after the date of retirement. We cannot agree with the respondents that 20 to 21 days is normal time for transmission of cheque when the cheque had been issued on 18.12.2004. We see no reason for the delay in payment beyond three months. OM dated 24.4.94 is clear that if payment is delayed beyond three months from the date of retirement, interest at the rate applicable to GPF deposits will be paid to the Government servant. In this case, payment has been delayed beyond three months. Hence this interest would be payable.

10. In view of above, the OA succeeds and is disposed of with the direction that for the delay in payment of gratuity, the respondents will pay interest at the rate applicable to GPF deposits for the period 1.10.2002 to 8.1.2003 (i.e. date of receipt of cheque), within one month from the date of receipt of this order, as per rules and law. No costs.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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