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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 1615 OF 2004

New Delhi this the 21st day of February, 2005

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

Shri Gurdeep Singh,
Ex. Deputy Director
AFFPD,
Ministry of Defence,
New Delhi

R/o BB 14-F, Janakpuri,
New Delhi.

.... Applicant.

(By Advocate Shri B.S. Mainee)

Versus

Union of India : through

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Chief Administrative Officer,
Ministry of Defence,
C-II, Hutments, DHQ PO,
New Delhi-110011.
3. The Director,
AFFPD, H Block, DHQ PO,
Ministry of Defence,
New Delhi-110011.

... Respondents.

(By Advocate Mrs. P.K. Gupta)

ORDER (ORAL)

By this O.A., applicant has sought a direction to the respondents to pay him the amount of Rs.9,39,926/- as calculated by respondents themselves along with interest on the said amount from the date from 27.01.2004 till the date of final payment.

2. It is submitted by the applicant that vide judgment dated 6.9.2001 passed in O.A. 2605/2000, this Tribunal had quashed the orders dated 24.5.1998 and



4.5.1998 whereby his request to withdraw the notice for voluntary retirement was rejected. The respondents were further directed to reinstate the applicant in service and give him all the consequential benefits within a period of three months from the date of receipt of the order (page 24 at 32). Since nothing was being done, applicant filed CP No. 316/2002. However, since applicant was already reinstated on 29.11.2001 (page 33), therefore, the CP was disposed of at the admission stage itself by directing the respondents to decide applicant's claim with regard to consequential benefits vide order dated 6.8.2002 (page 38). Thereafter, he gave number of representations and finally respondents themselves prepared a bill for payment of back wages due to the applicant on 27.1.2004 which shows that an amount of Rs.9,35,549/- was payable to the applicant (page 14), but since the amount was not being paid, therefore, he has filed the present O.A. During the pendency of this O.A., respondents have paid him an amount of Rs.4,58,604/- only, meaning thereby that nearly an amount of Rs.5,00,000.00 was paid less to the applicant for which neither any calculation sheet was given to the applicant nor is it explained as to how the said amount was withheld by the respondents. He has, therefore, stated in the rejoinder that at least respondents be directed to give the reasons and the break up as to how the amount has been calculated and why he has been paid lesser amount.

3. Respondents on the other hand have submitted that the request of applicant seeking voluntary retirement from service was accepted by the competent authority on 31.3.1998. Thereafter, applicant gave an application on 17.4.1998 for withdrawal of his notice for voluntary retirement which was rejected on 4.5.1998. Being aggrieved, he has filed O.A. 2605/2000 which was allowed on 6.9.2001.

4. In compliance of court's directions, applicant was reinstated in service w.e.f. 23.11.2001 and retired from service on attaining the age of superannuation on 30.4.2002. However, it is important to mention that the post which was relinquished by the applicant was abolished by the Government keeping in view the austerity measures of the Government. Therefore, a supernumerary post had to be created for the purpose of accounting the expenditure on pay and

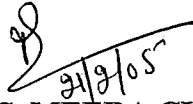


allowances of the applicant. They have further explained that the sanction for creation of supernumerary post for accommodating the applicant was accorded by the competent authority on 13.1.2004. Accordingly, a supplementary bill was prepared and sent to audit authority for making the payment to the applicant. An amount of Rs.4,58,604/- was passed vide cheque slip dated 9.7.2004. In the meantime, applicant consequent to his voluntary retirement had already drawn an amount of Rs.11,66,369/- on account of various heads which remained with the applicant till it was adjusted with the issuance of the cheque for Rs.4,58,604/-. Thus, applicant cannot get the amount of Rs.9,39,926/- which was wrongly calculated. They have submitted that applicant has relied on some internal communication. They have also annexed letter dated 9.1.2002 written by the applicant himself wherein he had himself requested that the amount be adjusted with the pay and allowances for the period from 4.5.1998 to 22.11.2001. He had further undertaken to deposit the balance amount, if any after adjustment of refundable amount.

5. I have heard both the counsel and perused the pleadings as well. Counsel for the applicant heavily relied on the internal correspondence made by the respondents, on 27.1.2004 that the applicant was entitled to get an amount of Rs.9,35,459/-. The respondents have further explained in the counter affidavit that at the time of reinstatement, applicant was already holding the amount of Rs.11,59,140/- consequent to his voluntary retirement which was later on quashed by the Tribunal and he was directed to be reinstated. Therefore, the amounts were adjusted and applicant was paid whatever was due to him after such adjustment. It is also seen that the post of Deputy Director was ^{abolished} ~~operated~~ w.e.f. 5.5.1998 i.e. the date of voluntary retirement of the applicant and subsequently supernumerary post was created with the approval of Ministry of Finance which was given only on 13.1.2004. It is thus clear that the delay in this case took place as supernumerary post had to be created to accommodate the applicant and for preparing his arrears on account of pay and allowances. In the rejoinder, applicant has not disputed the fact that he had already been paid an amount of Rs.11,59,140/-. Therefore, naturally it was open to the respondents

to adjust the amounts which were already paid to the applicant before giving him the amounts which were still payable on account of his pay and allowances for the period as directed by the Tribunal. In this view of the matter, the request of applicant that he should be given further interest cannot be accepted because in any case he was already holding the amount of Rs.11,59,140/- with him which he was not entitled to since his voluntary retirement had been quashed by the Tribunal. In any case, at this stage now that respondents have already paid an amount of Rs.4,58,604/- to the applicant, after making certain adjustments. All that is required is that the applicant should be informed as to how the amount has been calculated, what adjustments have been made and why he has been paid the amount of Rs.4,58,604/- only. Therefore, respondents are directed to give full breakup to the applicant along with calculation sheet mentioning therein the amount which was due to him as per the directions of this Tribunal as also the amount which was also paid to him after his voluntary retirement and then to show how it was adjusted and how an amount of Rs.4,58,604/- has been arrived at. This shall be given to the applicant within a period of three months from the date of receipt of copy of this order. In case applicant is still aggrieved, he can give representations to the authorities concerned who would consider the same and pass appropriate speaking orders thereon within a reasonable period thereafter.

6. With the above directions, O.A. is disposed of. No order as to costs.


(MRS. MEERA CHHIBBER)
MEMBER (JUDL.)

'SRD'