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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. No.86/2005 In
O.A. No. 1709/2004

New Delhi this the 25th day of May, 2005

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Mrs. Meera Chhibber, Member (J)

S.B. Sharma
R/o 243, Subhash Chowk,
Bahadurgarh.

-Applicant

(By Advocate: Shri Gopal Aggarwal)

Versus

Union of India through

1. Shri Mashoda Lal
Dy. Director (Administration)
D.G. Doordarshan Bhawan,
Mandi House, New Delhi.

2. Shri S.K. Arora,
Under Secretary,
Ministry of Information & Broadcasting
A-Wing, Shastri Bhavan,
New Delhi.

-Respondents

(By Advocate: Shri S.M. Arif)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

Learned counsel heard.

2. OA-1709/2004 was disposed of vide order dated 20.7.2004 with the following observations/directions to the respondents:-

“4. Having regard to the facts and circumstances of the case and also having regard to the decision of the Hon'ble High Court in the matter and also that it is under consideration with the respondents, I am of the considered opinion that as the matter has already remained pending with the respondents for over 12 years since the applicant has retired, during which period he suffered very badly and also that the criminal revision which had been filed against him has since been dismissed by the Hon'ble High Court, this OA is disposed of at the admission stage with a direction to the respondents to expedite the decision in the matter and to ensure that pensionary benefits and also the amount of gratuity, which are due to be paid to the applicant, are paid to him, including interest on the delayed payment, as

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admissible under the rules, within a period of two months from the date of receipt of a copy of this order".

3. Applicant has initiated the instant contempt proceedings alleging that respondents have not accorded him the annual increments as also they have not paid any interest on the delayed payment of gratuity.

4. Learned counsel of the applicant has relied on 2005 (1) AISLJ 35 State Bank of India & Ors Vs. R.B. Sharma, stating that as both departmental proceedings and criminal cases were pending against the applicant and the criminal case was decided much earlier, delay in disposal of the disciplinary proceedings against the applicant should be considered as a ground for grant of interest on delayed payment of gratuity.

5. Learned counsel of the respondents, on the other hand, stated that respondents have passed orders dated 16.2.2005 (Annexure CA-I) imposing a penalty of 10% cut on monthly pension of the applicant for a period of five years in addition to recovery of full amount of LTC advance of Rs.4595/- from withheld amount of his gratuity and directing release of the balance amount after effecting recovery of LTC advance. He explained that as per Government of India's decision (1) below Rule 68 of CCS (Pension) Rules, as the applicant was not fully exonerated, no interest is payable to the applicant on the delayed payment of gratuity. Learned counsel further stated that as per Government of India's Order No.7 below FR-25 regarding the procedure for consideration of E.B. cases, where disciplinary proceedings are pending, crossing the efficiency bar can be withheld until the conclusion of the proceedings. Thus, he maintained that in the instant case non-grant of increments to applicant is in order.

6. We are of the view that the facts of the case of State Bank of India & Ors. (supra) are not applicable to the facts of the present case. In our view, the Government of India's instructions cited on behalf of the respondents in regard to non-payment of interest in disciplinary or judicial proceedings where the delinquent has not been fully exonerated as also regarding non-grant of increment under FR-25 where disciplinary proceedings are pending and the applicant was to be considered for crossing the Efficiency Bar are applicable to the facts of the present case. These instructions and

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related circumstances have not been discussed in the case of State Bank of India & Ors(supra). We are of the view that respondents have acted on the basis of the aforesaid Government of India's instructions under the relevant rules.

7. In the facts and circumstances of the case, no contempt is made out against the respondents. As such, CP is dropped and notices to the respondents are discharged. However, the applicant shall have liberty to resort to relevant legal proceedings on remaining aggrieved by the alleged action of respondents.


(Meera Chhibber)
Member (J)

cc.


(V.K. Majotra) 25/5/05
Vice Chairman (A)