

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.572/2004

New Delhi, this the 20th December, 2004

Hon'ble Shri S.K. Naik, Member(A)

1. K.K.Dhasmana
F-17, Kaka Nagar, New Delhi
2. Kuldeep Singh
F-7, Kaka Nagar, New Delhi
3. G.P.Singh
F-13, Kaka Nagar, New Delhi
4. D.R.Khatkar
171, Dharamkunj Apartments
Sector 9, Rohini, New Delhi
5. Harinder Pal Singh
3532, D111 Vasant Kunj, New Delhi

Applicants

(Shri Ajay Veer Singh Jain, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Finance, New Delhi
2. Chairman
Central Board of Excise and Customs
New Delhi
3. Member(P&V)
Central Board of Excise and Customs
New Delhi
4. Chief Commissioner of Central Excise
Delhi Zone, IP Estate, New Delhi
5. Commissioner, Central Excise
IP Estate, New Delhi

(Shri Madhav Panickar, Advocate)

ORDER

MA for joining together is allowed.

2. By virtue of this OA, applicants seek relief in the form of a direction to the respondents to grant them interest on the arrears of financial benefit given to them under the ACP Scheme.

3. The facts of the case in brief are that the applicants had earlier filed OA No.174/2003 seeking a direction to the respondents to grant them the benefit of ACP Scheme from the date when it became due along with arrears and interest. This

Issued

Tribunal vide its order dated 23.1.2003 had directed the respondents to consider their representation within a period of two months from the date of receipt of that order by passing a reasoned and speaking order. Respondents in pursuance of the Direction of the Tribunal considered their representation and vide their order dated 31.3.2003 granted the benefit of ACP Scheme from the date it became due to the applicants. However there is no mention of grant of any interest on the arrears. Applicants therefore served legal notice on the respondents for the grant of interest for the delayed payment on the arrears of financial benefits. Respondents however have replied to the same stating that there is no provision under the Rules to grant interest in such a case and have rejected their claim.

4. Learned counsel for the applicants has prayed for the grant of interest on the arrears of the financial benefits given to the applicants primarily on the ground that the blame for the delay in the processing of their case for grant of ACP squarely lies on the shoulder of the respondents and the applicants cannot be penalized for their lapse. He has further argued that the respondents have accepted their mistake. Learned counsel has further contended that the respondents have purposely delayed the same and on top of it they have deprived the applicants of the interest which is due to them. The superior authority in the department has taken no action for the delay in the processing of their case and therefore respondents deserve to be admonished and the applicants given interest on the arrears.

5. Learned counsel for the respondents on the other hand has contested the claim of the applicants. In defense he has stated that when the ACP scheme was introduced for the first time consequent to the recommendations of the 5th Central Pay Commission vide Government of India OM dated 9.8.1999, respondent-department had to formulate a methodology to process the case for being placed before the Screening Committee. That took some time. The sanctioned strength of Group D and Group C employees of the department being quite in substantial scale throughout the country, collection of information from regional offices had to take some time. The screening committee had to peruse the confidential reports of the eligible employees which had to be collected from all over the country from the cadre controlling authority and the meeting of the screening committee had to be held over a period of time. In some cases ACRs were either incomplete or had not been received. Thus the counsel submitted that there was no intentional delay on anybody's part and it was for the simple reason that the new system had to be put in place, which caused unintentional delay. Contending that while the ACP Scheme was introduced from 9.8.1999 and the first order for first financial upgradation was issued in the year 2000, it cannot be stated that there has been any unreasonable or

J. J. J.

undue delay. There has been no malafide or intentional delay and the claim of the applicants that the respondent-department had delayed the payment would be, to say the least, unfair.

6. Relying on the judgement of the Supreme Court in the case of **UOI Vs. Dr.J.K.Goel JT 1997(10) SC 526**, the learned counsel has contended that as observed by the apex court therein, it is necessary that the facts of the case should be examined to ascertain whether there are any special equity which would justify grant of such interest although there is no provision in law for grant of such interest. Since there is no provision in law interest cannot be granted and further there is no equity in favour of the applicants. The learned counsel therefore contended that claim for grant of interest is unreasonable and incorrect.

7. I have considered the contentions raised by the learned counsel for the parties and also perused the records of the case.

8. While no doubt there has been some delay in the sanction of ACP for which the applicants had to approach this Tribunal earlier and only thereafter that the ACP benefit has been extended to them, I find that there is no provision under which interest can be granted. The principle of equity also cannot be invoked by the applicants as grant of ACP is ipso facto not extendable and the process of screening has to be undergone. If the process has taken some time, it cannot be said to have been resorted to intentionally or was aimed to deliberately deprive the applicants of their due benefits. Under the circumstances, I find no merit in the OA to direct the respondents to pay to the applicants interest on the arrears of financial benefit given to them under ACP. However, the respondent-department should look into the matter as to why delay took place and streamline their procedure so as to ensure that ACP benefits are extended to all eligible employees by due date as far as possible.


(S.K. Naik)
Member(A)

/gtv/