

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 2408/92

New Delhi, This day of 31st August, 1994

Hon'ble Shri J.P. Sharma, Member(J)

Dr. R.P. Bansal,
S/o Late Sh. B. Lacchman Dass,
R/o 42, Navyug Market,
Ghaziabad 201 001.

..... Applicant

(By Advocate : Sh. V.P. Singhal)

Vs

1. The Director General,
I.C.A.R.,
Krishi Bhawan,
New Delhi.

2. The Director,
I.V.R.I.,
Izatnagar(U.P.).

..... Respondents

(By Advocate : Sh. A.K. Sikri)

ORDER

Shri J.P. Sharma

The applicant has since retired as Principal Scientist from IVRI, Mukteshwar, Distt. Nainital. On 31st October, 1991 and filed this application regarding his grievance of with-holding of arrears on account of NPA and DA arrears and withholding the amount of gratuity. He also has a grievance of non-payment of computation of pension and that he has not been paid the enhanced NPA @ Rs.800/- per month allowed with effect from 11.5.90 to 31st October, 1991. He has therefore prayed for the grant of following reliefs:-

- i) To quash the IVRI, Izatnagar office order No. 23-345/91-Pension dated 29.10.91 withholding the paid arrears of NPA and DA arrears as well as the

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NPA and DA arrear paid in the monthly salary bills from my gratuity amount payable to the applicant.

- ii) To issue an appropriate writ order to the respondents to release the withheld amount of Rs.41940/- from my gratuity on my superannuation.
- iii) To issue an appropriate writ order to the respondents to allow the NPA and DA on enhanced rates of Rs.800/- P.M. of NPA from 11.5.1990 till 31.10.91 i.e. till my date of superannuation.
- iv) To issue an appropriate writ order to the respondents to revise my pension, family pension and all other pensionary benefits, after taking into account the above NPA and DA thereon from 1.7.86 to 31.10.91 as prayed for above and also to allow the consequential arrears becoming due therefrom on each account of pensionary benefits.
- v) To issue an appropriate writ order to the respondent to allow me interest @ 18% DA on the withheld amount of gratuity of Rs.41940/- from 1.11.91 till the date of payment. And also to allow interest @ 18% on the delayed payment of enhanced NPA and DA thereon from 11.5.1990 to 31.10.91 and so the interest @ 18% on the delayed payment of arrears of pensionary benefits on the basis of revised pension etc. after taking into account the enhanced NPA and DA thereon.
- vi) The respondents be also directed to give any other relief to the applicant which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of this case.

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2. On notice the respondents filed a short reply and stated that the gratuity of Rs.41940/- has been withheld because of no clear orders for the grant of NPA. A decision whether the NPA is paid to the applicant was taken on 23rd February, 1993. It was through this memo that the ICAR decided to pay NPA to the applicant. The applicant was paid NPA earlier on the provisional basis and an undertaking was given by the applicant to the effect that he will refund the entire amount of NPA in case of any change in policy decision or any interpretation of instructions on that issue. After this, by the order dated 23rd February, 1993 the NPA matter has been finally cleared and the arrears to be paid to the applicant only after the matter has been finally settled. The present case has therefore become infructuous. The applicant has supplemented his pleadings by stating in the petition dated 16th December, 1993 that certain officers have been paid NPA before their age of superannuation and no part of the paid NPA was withheld from their gratuity, etc. A list of the officers have been given which includes Dr. Roshan Lal, Dr. B. Panda, Dr. B.R.Gupta and Dr. N.P. Bhalla who all retired in 1989-90. In view of this the applicant has pressed for payment of interest on the amount withheld or not paid at the time of his superannuation. The matter for payment of NPA has been decided before the date of submission of the

the application i.e., 31st October, 1991 and not by the O.M. dated 23rd February, 1993 as is stated by the respondents which only emphasised the payment of NPA to veterinary officers holding veterinary degrees. The O.M. dated 23rd February, 1993 further liberalised the policy even allowing NPA to some other officers who has not been holding such degrees/posts.

3. The respondents again filed a reply reiterating the fact that no decision was taken before the superannuation of the applicant regarding admissibility of NPA for pensionary benefit and as such the question of payment of interest on the amount paid as arrears to the applicant after 23rd February, 1993 does not arise. Regarding the exemplars referred to by the applicant the respondents have stated that the element of NPA was not taken into account while giving terminal benefits to those scientists.

4. Heard the learned counsel for the parties. The respondents have filed their reply dated 23.2.1993 to the effect that NPA will be treated for all service matters and will be admissible to post in the scale of pay of Rs.2000 - 3500 and above will remain unchanged. This order was given effect to on 1.1.1986 or from the date the employee draws his pay in the revised pay applicable to him in accordance with the existing rules on the subject. Certain other facts and the criterion for eligibility and entitlement of NPA has also been

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referred to in this O.M. dated 23rd February, 1993. Though it is a fact that the final decision were taken into account the NPA for determining the element of pension was decided on 23rd February, 1993 but at the same time the respondents should not ^{have} withheld the amount of gratuity of Rs.41940/- which was payable to the applicant on his retirement. The difference of gratuity that has arisen and the difference of pension was, of course, payable to the applicant after the passing of the above said order dated 23rd February, 93. The amount of gratuity withheld was only on the further clarification to be given by the competent authority. When the clarification goes in favour of the applicant then the applicant can not be denied the interest on the withheld amount of gratuity. The other claims of the applicant has already been meted out and he can not claim any interest on the difference of pension and gratuity revised in pursuance of the O.M. dated 23rd February, 1993.

5. In the above conspectus of facts and circumstances the application is partly allowed with the direction to the respondents to pay interest @ 12% per annum on the withheld amount of gratuity for Rs.41940 from one month after the retirement of the applicant till the date of payment. The respondents to comply with the directions within three months from the date of receipt of this order. The parties allowed to bear their cost.

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J.P. Sharma
(J.P. Sharma)
M(J)