

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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C.A. NO. 1156/92

DATE OF DECISION : 29.04.92

SHRI VIRENDRA PRASAD

...APPLICANT

VS.

CENTRAL PROVIDENT FUND
COMMISSIONER

...RESPONDENT

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HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

... IN PERSON

FOR THE RESPONDENT

... NONE

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant appeared in person and argued the matter regarding non payment of full interest on belated payment of commutation of pension as ordered by this Tribunal in OA 407/87 and in para 1 assailed the order of the Tribunal dt.14.9.1989 and the letter of the respondents dt.8.1.1990. The letter dt.8.1.1990 (Annexure A2) goes to show that the applicant was allowed interest from June, 1988 to May, 1989 @12% of commuted value of pension (Rs.96,274)=Rs.10,911. However, from this amount, the respondents have deducted the one third of pension @Rs.767 p.m. from 4.6.1988 to 30.4.1989 amounting to Rs.8,105 and paid the balance to the applicant. The

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grievance of the applicant is that full amount of interest, i.e., Rs.10,911 should have been paid to the applicant and the amount withheld, i.e. Rs.8,105 should be ordered to be paid to the applicant along with 12% p.a. interest.

2. I have heard the applicant in person and also perused the judgement given in OA 407/87 on 14.9.1989. In this judgement, the applicant was also allowed interest @12% on the appropriate commuted amount of pension w.e.f. 14.6.1988. This amount is said to have been credited in the bank account of the applicant on 24.5.1989. The applicant also moved CCP 92/90 which was dismissed on 5.9.1990 wherein it was observed that there are calculations and if there is an error in calculating the amount, it calls for a fresh OA and not for proceeding for the CCP. Thus the deduction which have been effected, were already considered by the Bench which delivered the judgement on 14.9.1989 and also perused the one third amount deducted of pension @Rs.767 p.m. from 14.6.1988 to 13.4.1989. The scope left in the fresh OA is only for the calculation part.

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3. I have seen the impugned order of 1990.

Firstly the CCP was dismissed on 5.9.1990 and the cause of action has arisen to the applicant by the order dt.8.1.1990. So he should have filed this Original Application by 8.1.1991 and in any case if he takes limitation from the CCP, then too immediately after or till 5.9.1991. Thus the present application is hopelessly barred by time. It appears that the applicant has moved another MP 1285/90 and that too was dismissed as not pressed on 11.3.1991. Thus the applicant cannot raise the same issue now and it is barred by time. Under Section 21 of the Administrative Tribunals Act, 1985, there is a prescribed period in which the applicant has to assail his grievance and any unexplained delay will not be considered unless it is accompanied with a written or oral prayer for condonation of delay, which has not been done in the present case. Thus the present application is barred by time and is liable to be dismissed on that account at the admission stage itself.

4. However, the applicant has also argued on the point that the commutation of pension has been fixed taking the

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date of retirement, i.e., 31.7.1986 and further under Rule 6 of the Commutation of Pension Rules, his case is covered under Proviso (b) of the said rules. However, this is not so. The applicant cannot take double advantage. At one time the applicant has drawn the full pension and then again the applicant has by virtue of the direction of the Tribunal drawn interest on that amount also, though the age factor for commutation of pension has been considered as on 31.7.1986.

5. In view of the above facts, I find that the present application is barred by limitation and is dismissed at the admission stage itself.

AKS

J. P. SHARMA

(J.P. SHARMA)
MEMBER (J)