

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 514 of 1996

Allahabad this the 31st day of August 1998

Hon'ble Mr. S.K. Agrawal, Member ( J )

M.P. Shastri, S/o Late Chhattar Prasad, A/a 63 years,  
R/o No.57, Shivkuti, Allahabad-211004

Applicant

By Advocate Sri K.P. Srivastava

Versus

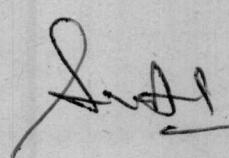
1. Union of India, through the Secretary(Posts), Ministry of Communication, Govt. of India, New Delhi.
2. The Director General (posts), Dak Bhawan, New Delhi.
3. The Director Accounts(Posts), U.P.Circle, Lucknow.
4. The Chief Postmaster General, Bihar Circle, Patna Bihar.
5. The D.A.(P), Bihar Circle, Patna.

Respondents

By Advocate Km.S. Srivastava

O R D E R

By Hon'ble Mr. S.K. Agrawal, Jud. Member

 This O.A. under Section 19 of the Administrative Tribunals Act, 1985 has been filed in which the prayer of the applicant is to issue directions to respondents to pay the interest at the rate of 24% per annum on the recovered amount of Rs.13,679/- from 01.7.91 to 05.5.94.

2. In brief the facts of the case as stated by the applicant are that the applicant was promoted to the post of Superintendent of Post Offices w.e.f. 28.2.1981 and his pay was fixed on Rs.845/- per month but the D.A.(P) on 17.7.86 after five years without any notice to the applicant has revised the pay fixation made by the Postmaster, Etah and reduced his pay from Rs.845/- to Rs.810/- arbitrarily and further directed to recover alleged over paid amount during 28.2.81 and onwards. The applicant made the representation against the said arbitrary and illegal orders dated 17.7.86 issued by D.A.(P), Lucknow and ultimately filed an O.A. No. 744/86 before this Tribunal against illegal revised fixation and reduction of Rs.35/- per month w.e.f. 28.2.81 as well as recovery of alleged over paid from the applicant. The Hon'ble Tribunal was pleased to decide the O.A. 744/86 M.P. Shastri Vs. Union of India and Others on 23.3.93 and allowed the application and fixation of his pay at the rate of Rs.845/- per month. Thereafter, applicant submitted an application alongwith copy of the order dated 23.3.93 to respondents to pay the arrears of pay and allowance for the period w.e.f. 28.2.81 to 30.6.91 but respondents overlooked the directions of this Tribunal. Thereafter, the applicant filed contempt petition and after issuance of notices to the alleged contemnners, the respondents have paid their attention and started the arrears of payment in instalments from May, 1994 after a lapse of more than 12 years. It is submitted that the respondents remitted Rs.13,679/- to the applicant which was recovered from the amount of his retirement gratuity on 01.7.91 by instalments but no interest was paid to the applicant. The applicant was legally entitled for payment of the amount on due dates as other officials had received but because of the fault on the part of the department to revise correct fixation of pay made by the Postmaster, Etah by incorrect one, against

the provisions of the rules for the purpose. The amount of Rs.13,679/- was recovered from the applicant on 01.7.91 without any justification even during the pendency of the O.A.No.744 of 1986. Therefore, the applicant has submitted that he is entitled to interest at the rate of 24% per month on the recovered amount of Rs.13,679/- from 01.7.91 to 05.5.94.

3. The counter-affidavit was filed by the respondents. In the counter-affidavit, it was submitted that recovery from the applicant was made because of the audit objections and recovered amount of Rs.13,679/- has already been paid to the applicant. It is also submitted that question of payment of interest does not arise as the case is barred by principle embodied in Order II Rule 2(3) C.P.C. and this O.A. is wholly devoid of merits and liable to be dismissed.

4. The rejoinder was also filed by the applicant and all the facts mentioned in the O.A., have been reiterated.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents ---at the stage of admission.

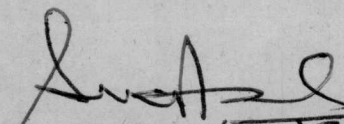
6. It is an admitted fact that the pay of the applicant was fixed on promotion at Rs.845/- per month and later on it was re-fixed at the rate of Rs.810/- per month and Rs.13,679/- were recovered from the applicant at the time of retirement while the payment of gratuity. It is also an admitted fact that this amount has been paid to the applicant after the decision of O.A. 744/86 in instalments.

7. It is submitted <sup>by</sup> the learned lawyer for the applicant that because of the fault on the part of the respondents, this recovery was made from the gratuity payable to the applicant

arbitrarily and without any application of mind and respondents have paid the entire amount in instalments only after the decision of O.A. 744/86, after filing the contempt petition by the applicant.

8. The above facts are not disputed on the basis of the pleadings of the parties. The claim of interest of the applicant appears to be reasonable because recovery from the applicant was made only on the basis of objection made by the audit party. There was no application of mind and without affording opportunity to show-cause to the applicant. Before the order of recovery, it was the duty on the part of the applicant to give opportunity of hearing to the applicant because this order has a civil consequence but, no opportunity was given. The applicant was compelled to file O.A. 744/86 and only after the decision of this O.A. and after filing the contempt petition by the applicant, the payment was made to the applicant for the recovered amount, therefore, the applicant is entitled to interest at the rate of 12% per annum on Rs.13,679/- with effect from 01.7.91 till the amount was paid to the applicant i.e. 05.5.94.

9. On the basis of above all, this O.A. is allowed with the direction that the applicant is entitled to interest on Rs.13,679/- w.e.f. 01.7.91 to 05.5.94 at the rate of 12% per annum, which shall be payable to the applicant within the period of 3 months from the date of receipt of copy of this order. No order as to costs.

  
Member (J) 31/8/88

/M.M./