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RESERVED

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLD BENCH
ALLAHABAD

DATED. ALLD. on this

9th

Day of March, 98.

CORAM HON'BLE MR D S BAWEJA, MEMBER (A)

ORIGINAL APPLICATION NO.981 OF 1996.
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B.P. Srivastava, Retired Assistant
Engineer, Doordarshan, Nagpur, S/o
Late Shri Sharda Prasad Srivastava,
R/o Lal Darwaza, Ghazipur.

... Applicant.

C/A Shri H S Srivastava

vs.

- (1) Union of India, through Secretary
Ministry of Information & Broadcasting
New Delhi
- (2) Director General
Doordarshan, Mandi House
New Delhi
- (3) Station Director
Doordarshan Kendra
Nagpur
- (4) Accountant General (Accounts)/
Controller General (Accounts)
I.R.L.A., Lok Nayak Bhawan
Khan Market, New Delhi.
- (5) Dy Controller of Accounts
I.R.L.A., AGCR Building
New Delhi
- (6) Senior Accounts Officer
Govt of India, Pay & Accounts Office
Ministry of Information & Broadcasting
AGCR Building, NEW DELHI.

... Respondents.

C/R Shri Vikram Gulati

ORDER
(By Hon'ble Mr D S Bawaja, Member(A))

The applicant while working as Assistant Engineer,
Doordarshan Kendra, Nagpur, superannuated on 31.07.1990. He
was not paid the settlement dues of General Provident Fund

(GPF) and leave encashment at the time of retirement. However, these dues have been paid subsequently. The applicant was allowed payment of interest for delay in payment of GPF. However, this payment was also made after considerable delay. No interest was paid on the delayed payment of the leave encashment. The applicant made several representations for payment of interest on the delayed payment of the settlement dues but did not ^{get} any response. Further, an amount of Rs.1255/- was due to the applicant which had wrongly recovered as Leave Travel Concession (LTC) advance. Being aggrieved, the present application has been filed on 18.08.1996 seeking the following reliefs:-

- (a) To direct respondents to make payment of interest @ 18% P.A. for delay in payment of leave encashment of Rs.27,682.40 from 31.07.90 to 24.12.1991 with further interest on the delay in payment of interest from 24.12.91 till the date of actual payment ;
- (b) To direct respondents to make payment of interest @ 18% P.A. on the GPF amount of Rs.1,60,557/- for the period from 31.07.90 to 06.03.91 after deducting the amount of Rs.10,809/- already paid and also payment of interest @ 18% P.A. till 06.11.92 for delay in payment of interest ;
- (c) To direct respondents to make payment of interest for delay in refund of Rs.1,255/- on a/c of LTC advance @ 18% per annum for the period from 31.07.90 to 24.12.91 ;
- (d) To declare the proposed recovery of the alleged excess payment as illegal and restrain respondents from making any such recovery.

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02. The respondents have filed counter reply contesting the claim of the applicant. The respondents submit that GPF was released to the applicant on 06.03.91 and the payment of interest due from 01.08.90 to 28.02.91 amounting to Rs.10,809/- was also paid to the applicant on 05.11.92. The encashment of Earned leave has been paid to the applicant on 24.11.91. The issue of LTC advance pertains to the year 1988 and on scrutiny, it was found that the advance remained unpaid and the same was paid to the applicant on 24.12.91. The respondents further submit that the interest as admissible as per extant rules has been allowed for delay in payment of GPF. There are no extant rules to make payment of any interest for the leave encashment and LTC advance. The respondents have also contended that payment of GPF was delayed as the necessary papers required for payment of GPF were received late from the concerned Office as the same were submitted late, ^{by the applicant}, ^A Payment of leave encashment was delayed as the applicant disputed the amount of earned leave due to his credit at the time of his retirement. On his representation, the entire leave record was re-examined and this resulted in some delay. The respondents' ^{make a} plea that there has been no intentional or wilful default in payment or any harassment to the applicant.

03. The applicant has filed the rejoinder reply controverting the averments of the respondents and reiterating his grounds raised in the O.A. The applicant has also relied upon the judgement of Hon'ble Supreme Court of India in the case of Union of India Versus Justice S S Sandhawalia (Retd) & Other with regard to entitlement of interest for delay in payment of leave encashment.

04. I have heard Shri H S Srivastava and Shri Vikram Gulati, counsel for the applicant and the respondents respectively. The material on record has also been gone through.

05. First claim of the applicant is with regard to payment of interest for delay in payment of GPF amount from 31.07.90 to

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06.03.91 and payment of interest for the delayed period in the payment of interest due. The applicant has indicated date as 31.07.90. The applicant retired on 31.07.90 and therefore, the interest becomes due only from 01.08.90. The applicant during hearing conceded that his claim is from 01.08.90 and not from 31.07.90. From the averments of the respondents, it is noted that interest has been paid upto 28.02.91 and the actual payment has been made on 06.03.91. In view of this, the only claim of the applicant for the balance interest is for the period of 6 days. The claim of the applicant for interest for this period is not tenable. The payment of GPF could be arranged only after closing the account and thereafter processing the payment. Therefore, the interest would be allowed to a period when the account is closed and not upto the actual date of payment. It may take a few days for processing. In this case, the payment has been arranged within a short period and in my opinion, no interest is payable for the period from 01.03.91 to 06.03.91. Therefore, in view of this, I am inclined to accept the submission of the respondents that interest as for the period due as per the extant rules, has been allowed. The applicant has claimed interest of 18% p.a. for the delay in payment of the GPF. The applicant has not quoted any relevant rules underwhich 18% interest is admissible. If the payment of GPF is delayed, the interest for the delayed period would be entitled as if GPF account of the applicant continued with the Government. Therefore, the applicant could be entitled for payment of interest as laid down for the GPF account. In the light of these observations, I am inclined to allow the claim of the applicant for 18% interest. The applicant has also claimed 18% interest for the delayed payment of interest. The interest on the GPF also becomes a part of GPF and therefore, any delay in payment of interest will amount to delay in payment of GPF. Keeping this in view, I hold the view that the applicant is entitled for interest on the delay in payment of interest which had become due to the applicant till the actual date of payment of the interest ~~amount~~ ^{amount}.

However, as indicated earlier, applicant will be entitled to the interest rate as applicable for the GPF account at that time and not @ 18% p.a. The payment shall be arranged within three months from the date of receipt of the order.

06. The second claim of the applicant is with regard to payment interest on the delay in payment of the encashment of earned leave. The respondents have pleaded that delay in payment had taken place due to the dispute raised by the applicant with regard to leave due to the applicant at the time of retirement. This argument of the respondents is not tenable. For payment of the settled dues on the date of retirement, the respondents are expected to take advance action to settle the leave record. Even if there was any representation from the applicant, the payment for the leave period as per record should have been made to him and for the disputed period, matter could have been examined subsequently. In view of this, the delay in payment cannot be attributed to the applicant. The applicant has cited the judgement of Hon'ble Supreme Court in the case of Union of India Versus Justice S S Sandhawalia (Retd) & Other as referred to earlier. As per this judgement, Hon'ble High Court had allowed payment of interest on the delay in payment of leave encashment and the same was upheld by the Hon'ble Supreme Court. Keeping in view what is held in this judgement, I allow interest of 12% p.a. for the delay in payment of leave encashment from 01.08.90 till the date of payment. Payment shall be arranged within three months from the date of the receipt of the order.

07. The applicant has also claimed payment of interest @ 18% p.a. on the delay in payment of interest as claimed to be due on the delay in payment of leave encashment. Referring to the judgement cited earlier it is noted that no interest has been allowed on the delay in payment of interest. As per extant rules no interest is payable as cited by the respondents. The payment of interest has been now allowed @ 12% p.a. and therefore, in my opinion no interest is payable on the delay in payment of the interest which has been allowed @ 12% p.a. for delay in payment of leave encashment.

08. The applicant has also claimed payment of interest on the delay in refund of Rs.1255/- of L.T.C. advance @ 18% p.a. From the facts of the case, it is noted that this issue refers to 1988 and the matter for interest has now been agitated through this O.A. filed in 1996. If the applicant was aggrieved for delay in payment, the matter should have been agitated at the appropriate time. Even after receipt of payment in 1991, the applicant kept quite. In view of this, I do not find any merit in the claim of the applicant.

09. The last relief claimed by the applicant is that the recovery proposed by the respondents for the alleged excess payment be declared illegal and restrain respondents from making any such recovery. Such a prayer is premature as emerges from the facts from the either side. The applicant has not impugned any order according to which recovery of excess of payment is proposed to be made. The applicant has not even specified the amount of recovery being made. In the absence of such details, no direction can be issued to the respondents restraining them from making any recovery of the excess payment.

10. In the light of the above deliberations, O.A. is partly allowed with the direction as contained in para 5 & 6 above. No order as to cost.

A. M.

Snt/-