

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

(5)

DATED: THE 27/4 TH DAY OF FEBRUARY 1998

CORAM : HON'BLE MR. D.S. BAWEJA, A.M.

ORIGINAL APPLICATION NO.450 OF 1997

Avdhesh Behari Lal Dixit,
Retired L.S.G. Moneter, Telephone Exchange
Sikhabad, at present r/o 62/51, Naya Bairhna,
Allahabad.

.... Applicant
C/A Shri A.K.Banerjee,Adv.

Versus

1. Union of India, through the
Post Master General, Pratap Pura, Agra.

2. The Superintendent, Post Offices,
Etawah Division, Chauguri, Etawah.

3. The Head Post Master, Head Post
Office, Etawah.

.... Respondent

C/R Km.Sadhana Srivastava, Adv.

ORDER

BY HON'BLE MR.D.S.BAWEJA, J.M.—

The applicant and his wife both have retired from the Department of Telecommunication and were drawing their respective pensions individually. The wife of the applicant died on 25.1.1986. As per the extem rules, the applicant was

entitled for family pension which was accordingly drawn and being regularly paid to the applicant along with dearness relief and interim relief on both ~~of~~ the pensions. However, abruptly, the respondents stopped the payment of dearness relief on the family pension with effect from 1.4.92 payable in the month of May 1992 onwards without any notice to the applicant. A recovery of Rs.12,335/- was also made from the pension from July 1992 to November 1994. The applicant made several representations and finally got a reply dated 6.9.94 informing him that according to the rules, the dearness relief cannot be paid to one person on both the pensions. Being aggrieved, by this action of the respondents, the matter has been agitated through this O.A. filed on 21.4.97 seeking the following reliefs:-

- (1) To quash and set aside the impugned action of the respondents by which the applicant has been deprived to draw the payment of dearness relief and family pension from 1.4.92 till the date along with interest.
- (2) To refund and pay the applicant the deducted amount of Rs.12,335/- from pension along with interest.
- (3) To pass an order or give direction to the respondents to fix responsibility for causing unnecessary financial hardship to the retired employee.
- (4) To pass an order directing the respondents to bear the cost of the case.

2. The applicant has submitted that the respondents have arbitrarily and wrongly treated the case of the applicant as employed or reemployed in Government job. The applicant contends that as per the extant Pension Rules, the applicant is entitled for dearness relief on the family pension also.

3. The respondents have filed counter affidavit. The respondents while admitting the facts of the case as detailed by the applicant, have submitted that during 1992 while carrying out internal audit inspection at Etawah/Office, the Head pension case of the applicant was gone through by the auditing party. The audit inspection directed that the applicant is not entitled for dearness relief on both the pensions and, therefore, the payment of dearness relief on the family pension should be stopped and over payment should be recovered from the applicant. Accordingly the action was taken to stop the payment of dearness relief from 1.5.92 and recovery of excess payment of Rs.12,335/- from July 1986 to 30.4.92 was also made from the applicant. However, on the representations made by the applicant, the matter was re-examined in consultation with the Audit Department and the Audit Department agreed to drop the objection. Accordingly the applicant has been paid the arrears of dearness relief from 1.4.92 to 30.6.97 amounting to Rs.29,841/- on 10.7.97. The recovery of Rs 12,335/- made earlier has also been refunded on the same date. The respondents contended that the reliefs prayed for by the applicant have already been granted.

4. The applicant has filed rejoinder affidavit and has confirmed the receipt of the payments of Rs.29,841/- and Rs.12,335/- as indicated by the respondents in the counter affidavit. The applicant further submits that since the payment of the amount under reference was denied to the applicant on account of the mistake of the respondents, he is entitled the reliefs of interest and cost.

5. I have heard Shri A.K.Banerjee counsel for the applicant and Km. Sadhana Srivastava, counsel for the respondents.

6. From the facts detailed above, it is admitted that the payment of the dearness relief on the family pension has been

restored and the payment of the arrears for the entire period as well as the recovery of the excess payment has been made to the applicant. The only issue now remains to be deliberated is the claim of the applicant for the payment of the interest and the cost of the case.

7. Taking the prayer for grant of interest for delayed payment, it is noted that the payment of dearness relief was stopped on the objections raised by the audit inspection. No information was given to the applicant regarding the stoppage of the dearness relief and only intimation to the applicant was sent after a period of two years in 1994. The applicant kept representing against the action of the respondents but it is noted that it has taken five years to re-examine the issue and drop the objection. During the hearing the learned counsel for the applicant brought to my notice the extent Pensions Rules with regard to family pension. On going through the rules I find that the objection raised by the audit inspection was patently wrong. Even after being taking of the matter by the department with the ^{Audit} ~~Audit~~ the issue was allowed to drag on in face of the clearly rules laid down. Keeping these facts in view I hold the view that the applicant has been denied payment of the dearness relief for five years ^{indifferent} due to the attitude of the administration. An old pensioner has been harassed for several years and, therefore, he deserves payment of the interest on the amount of the dearness relief which had been denied to the applicant. The respondents are directed to pay the interest @ 12% per annum. The accrual of interest will be worked out based on the calculations for delay of each monthly pension for the entire period till the actual payment. The interest of 12% per annum will also be paid on the amount of Rs.12,335/- from December 1994 after taking into account that the last recovery was made in ~~the~~ Month of November 1994 as indicated by the applicant till the actual

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date of payment in 1997.

8. As regards the prayer for the cost of the case, the facts of the case clearly bring out that the applicant has been harassed for several years for his legitimate right of getting dearness relief. The applicant was forced to seek a legal remedy on account of inaction on the part of the respondents and finally the respondents have made the payment only after the present O.A. was filed. In view of this I order the token cost of Rs.1,000/- to be paid to the applicant by the respondents.

9. The application is allowed with the directions as detailed in paras 7 and 8 above. No order as to costs.

S. R. Rao
MEMBER (A)

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