

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD this the 30th day of October, 2006.

HON'BLE MR. P.K. CHATTARJI, MEMBER-A

ORIGINAL APPLICATION NO. 1546 OF 2004

H.R. Srivastava, S/o Sri Khunno Lal Srivastava, R/o
173/222, Roshan Bagh, Allahabad.

.....Applicant.

V E R S U S

1. Union of India through Secretary Ministry of Environment & Forest, Government of India, Pariyavaran Bhawan, L.G.O. Complex, Lodhi Road, New Delhi.
2. The Director, Botanical Survey of India, P-8, Brabourn Road, Kolkata.
3. The Joint Director, Botanical Survey of India, Central Circle 10, Chaitham Lines, Allahabad.
4. Senior Pay & Accounts Officer (BSI/ZSI), Nizam Palace Complex, 2nd M.S. Building (17th floor), 234/4, A.J.C. Bose Road, Calcutta.

.....Respondents

Present for the Applicant:

Sri O.P. Mishra

Present for the Respondents:

Sri S. Chaturvedi

O R D E R

Through this O.A., the applicant is requesting for a direction to the respondents for payment of interest on the delayed payment of retirement dues to the applicant.

2. The brief facts of the case are that the applicant retired from service on 31.7.2002 from the

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office of Joint Director, Botanical Survey of India, Allahabad on attaining the age of superannuation. The applicant has stated in para 4.13 of the O.A. that in respect of payment of ~~retrial~~ dues, there was delay in payment, which is as follows:-

| Sl. No. | Items | Amount | Date of Payment |
|---------|-------------------------------|--------------|-----------------|
| 1. | Gratuity | Rs.1,89,000 | 4.4.2003 |
| 2. | Leave Encashment | Rs. 1,15,000 | 4.4.2003 |
| 3. | Pension & commuted value | Rs. 1,81,205 | 30.4.2003 |
| 4. | Group Insurance | Rs. 16,400 | 4.4.2003 |
| 5. | Arrears of Pension | Rs. 51,964/- | 31.5.2003 |
| 6. | Remaining balance of Gratuity | Rs. 1,000 | 31.7.2003 |

3. The applicant had earlier come to the Tribunal with O.A. no. 1525 of 2002 requesting for the Tribunal's intervention in causing payment of interest on delayed payment of ~~retrial~~ dues. The Tribunal in disposing of the said O.A. no. 1525 of 2002 directed the respondents to consider the representation given by the applicant in the matter of payment of ~~retrial~~ dues with interest and if it was considered appropriate as per rules to make payment thereof without any delay. As there was delay in compliance of the order of this Tribunal, the applicant filed Contempt petition bearing no. 45/2003. Before the Contempt petition was disposed of, the respondents made the payment of all ~~retrial~~ dues to the applicant. While disposing of the Contempt Petition, the Tribunal directed that the applicant was at liberty to file fresh O.A. claiming interest on the

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delayed payment of retrial dues, as noted above. Thereafter, as per the suggestion made by the Tribunal, the applicant has approached this Tribunal again by filing the present O.A. with the following relief(s):-

"(a) issue a writ, order or direction in the nature of mandamus commanding or directing the respondent no.3 of this Original Application to pay 18% interest on the delayed payment of retrial benefits i.e. pension Gratuity, Leave Encashment, Commutation value and Group Insurance etc. and also on amount due as interest, till the date of actual payment.

(b)
(c)"

4. During the course of hearing, the learned counsel for the applicant has brought to my notice of the decision passed in O.A. no. 733 of 2004, which, according to the applicant, is exactly identical. This question was also dealt with while deciding the aforesaid O.A. as there was inordinate delay in payment of retrial dues. It is worthwhile to quote the operative portion of the direction given in O.A. no. 733/2004 as follows:-

"In view of the facts and circumstances mentioned above and the discussions made, the O.A. succeeds on merit and is allowed. The respondents are directed to work the interest @ 9% per annum in accordance with the rules for the period of delayed payment or each item separately. The applicant is also directed to submit to the respondents a detailed representation indicating the date of actual payment and the period of delay involved in each item of the retrial benefits calculating the interest @ 9% per annum to assist the respondents. The entire exercise in this regard should be completed within a period of three months from the date of receipt of a copy of this order."

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5. While arguing the case, the learned counsel for the applicant has also brought to the notice of this Tribunal ~~of~~ the decision rendered by the Hon'ble Supreme Court in the case of Vijay L. Mehrotra Vs. State of U.P. & Others (reported in 2002 SCC (L&S)278). In this case, the Apex court in disposing of ~~the~~^{an} identical matter i.e. payment of GPF, Leave encashment, arrears of pay, Gratuity, Commuted value of pension, held that there was no reason or justification for not making the payment for months together and directed that the interest at appropriate rate should be paid for delayed payment of retiral dues.

6. In the end, the learned counsel for the applicant says that the delay was fully avoidable and was attributable on the part of the respondents' office and for that interest claimed is fully justified.

7. Sri Pankaj Srivastava holding brief of Sri S. Chaturvedi, learned counsel for the respondents states that firstly as per the Government instructions contained in the Circular no. S8/64/98-P&PW(F), Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioner's welfare), New Delhi dated 5.10.2003 the interest is not permissible for delayed payment of Leave encashment (para f) and on the amount of

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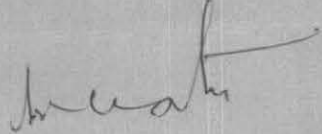
CGEGIS (para g). However, in respect of other item of retiral dues, Sri Srivastava says that although the respondents had tried ~~to~~ its level best to settle the retiral dues in time, but due to delay on the part of the Senior Pay & Accounts Officer (BSI/ZSI), Nizam Palace Complex, 2nd M.S. Building (17th floor), 234/4, A.J.C. Bose Road, Calcutta, the retiral dues could not be made in time. Although, the learned counsel for the respondents emphasized that the delay was also attributable to the applicant partly because he was not able to sign the pension papers in time, It appears from the correspondences appended to the Counter Affidavit between the Accounts Office, Kolkata and the office of the Joint Director, Botanical Survey of India, Allahabad that there was delay in the Accounts Office, Kolkata. Although the papers relating to retirement were sent by the respondent no.3 to Accounts Office on 18.4.2002 sufficiently before the date of retirement, The letter from the respondent no.3 to the Accounts Office, Kolkata dated 6.3.2003 ^{makes it} ~~appears~~ very clear that still the Accounts Office, Kolkata was not able to release the pension. The learned counsel for the respondent, therefore, could not successfully contest the contention of the applicant that there was avoidable delay. Although, it may not be due to negligence on the part of the respondent no.3, but the department as a whole had failed to make the payment of retiral dues in time and PAO Office, Kolkata being part of the same

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organization, it cannot be seen in isolation and, therefore, failure has to be seen with the respondents collectively.

8. In course of hearing, the learned counsel for the applicant emphasized and pointed out categorically that the decision rendered in O.A. no. 733/2004 was precisely identical to that of the present O.A., therefore, the judgment is fully applicable. I do not find any pleadings nor in the oral submissions from the respondents' side any clear cut evidence ~~in~~ contradicting the same points. The ratio of the judgment of the Apex Court as pointed out by the learned counsel for the applicant is also convincing as it dealt with the same question i.e. delay in payment of retiral dues.

9. On the basis of the above mentioned consideration, it is hereby directed that the respondents will work-out the interest in each item of retiral benefits except CGEGIS and leave encashment @ 9% per annum for the period of delay and pay the same to the applicant within a period of three months from the date of receipt of copy of this order. The O.A. is disposed of as above. No costs.


Member-A

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