

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

THIS THE DAY OF JANUARY, 2006

Original Application No. 586 of 2004

HON. MR.K.B.S. RAJAN, MEMBER (J)

Prem Ram, IFS, (Retd) aged about 70 years, S/o Sri Kishan Ram, R/o 17, Aakash Deep Colony, Ballupur Road, Dehradun (Uttranchal).

.. Applicant

By Advocate : Sri A.K.Gaur.

Versus

1. Union of India through the Secretary, Ministry of Environment & Forests, Paryvaran Bhawan, CGO Complex, Lodi Road, New Delhi.
2. Principal Chief Secretary of Forests, Van Anubhag-I, U.P. Shasan, Lucknow.
3. Director, Pension Directorate, U.P., Lucknow.
4. Principal Chief Conservator of Forests, U.P., Lucknow.
5. Director, Land Survey Directorate, Indira Nagar Forest Colony, Dehradun (Uttanchal).

.. Respondents

By Advocate : S/Sri S. Singh & K.P. Singh

ORDER

As early as in 1971, the Constitution Bench of the Apex court in the case of *Deokinandan Prasad v. State of Bihar*, (1971) 2 SCC 330, had held, "pension

is not a bounty payable on the sweet will and

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is not a bounty payable on the sweet will and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a government servant." This has been reiterated with equal emphasis in the latest judgment of the Apex Court in the case of **Grid Corp. of Orissa v. Rasanaanda Das, (2003) 10 SCC 297**, wherein the Apex Court stated, " It must be kept in mind that pension is not a bounty but it is hard-earned benefit for long service, which cannot be taken away."

2. Once it has been held that pension is a vested right of the pensioner, delayed payment of pension would result in the liability upon the Government to pay interest on pension and that again is due from the date of superannuation, as held in the case of **Harendra Nath v. State of Bihar, 1987 Supp SCC 56**, in which case, while the High Court granted interest only from the date of filing of the writ petition, the same has been modified by the Apex Court from the date of superannuation. Paragraphs 1 and 2 of the judgment in the said case is as under:-

"1. Special leave granted limited to the question of the date from which the appellant should be paid interest on the pension and gratuity amount etc. due to him.

2. Heard both the sides. The High Court has awarded interest with effect from the date of the institution of the writ petition instead of with effect from the date on which the pension and gratuity amount etc. became

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due on his superannuation about four years earlier. The appeal is, therefore, partly allowed to the extent that the appellant will be awarded interest from the date of his superannuation in 1981 instead of the date of the institution of the writ petition (i.e. August 5, 1985). The respondents will pay the costs of this appeal to the appellant which we quantify at Rs 2000."

It is with the above dictum of the Apex Court in view that this case is to be analyzed.

3. The Facts capsule:

The applicant was serving in the Forest Department of the UP Government as Land Survey Director, wherefrom he superannuated on 31st August, 1991. He had, for the purpose of receiving the pension etc, on time moved an O.A. No. 1254/91, which was decided on 27th March, 2001 and the order mandated the respondents No. 2 and 4 to pay the amount of Gratuity, Leave Encashment and Group Insurance to the applicant with interest @ 12% per annum. As certain amounts were paid, which according to the applicant ~~was~~ not in full compliance of the order of the Tribunal, he had filed a contempt petition 240 of 2002, which, however, was disposed of on 03-09-2003 with the liberty to the applicant to agitate about the same in a fresh O.A. Thus, this OA came to be filed.

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4. The grievance of the applicant is that since the formation of Uttranchal, the applicant is not paid the dues by the UP State Government or the Govt. of Uttaranchal. He has therefore, prayed for the following relief:-

- "(i) to direct the respondents to pay the entire arrears of pension alongwith interest @ 18% per annum thereon w.e.f. 12.10.1991 till the date of actual payment as directed by this Hon'ble Tribunal in O.A. no. 1254 of 1991 vide judgment and order dated 27.3.2001.
- (ii) to direct the respondents to pay the amount of Group Insurance amounting to Rs. 12336/- plus 18% interest thereon.
- (iii) To quash the order dated 23.3.2004 passed by the respondent no.3 i.e. Director Pension Directorate, U.P., Lucknow asking the applicant to fill up the pension forms alongwith the required documents.
- (iv) To award exemplary cost for causing inordinate delay in payment of pension and other retiral benefits.
- (v)
- (vi)"

5. State of UP has filed the counter. According to that respondent, the delay is due to the non furnishing of "three sets of the pension papers" by the applicant. The relevant paragraph of the counter is extracted below:-

(a) The applicant retired on 31.8.1991.


Pension papers were forwarded in three copies to the Director, Pension Directorate vide letter dated 5.3.1994.

Only Provisional pension was sanctioned to the applicant, due to contemplation of disciplinary proceedings. However, the State Government decided to close the disciplinary proceedings and ordered to release the final pension and gratuity vide G.O. dated 8.2.1999

(b) The Pension Directorate vide letter dated 19.11.1999 informed the office of Principal Chief Conservator of Forest to provide the pension papers of the applicant. One set of pension papers, which was available in the office of Principal Chief Conservator of Forest was forwarded to the Pension Directorate.

(c) The pension matter of the applicant was required to be amended and ~~it~~ required to be forwarded ^{with} ~~in~~ three sets of pension papers to the State of Uttranchal, the office of the Principal Chief Conservator of Forest, Lucknow vide letter dated 5.7.2002 directed the applicant in three sets and provide the signed and fair photograph.

 (d) However, the applicant did not complete the required formalities. Ultimately, the

Principal Chief Conservator of Forests, Lucknow vide letter dated 22.4.2004 directed the applicant to provide the pension papers in three sets alongwith signed and fair joint photographs to the office of the Principal Chief Conservator of Forest, Lucknow so that after amendment issue of pension matter may finally be settled and to send the same to State of Uttranchal.

(e) The applicant has already been paid leave encashment for Rs. 52600/- interest on leave encashment for Rs. 98619/- and interest on gratuity for Rs. 68608 after the judgment passed by this Tribunal in O.A. no. 1254 of 1991 in March 2003. The applicant has already been paid all retiral benefits except the interest on GIS, which is to be paid by the Government of India.

6. No other respondents have filed any counter.

7. The applicant has filed the Rejoinder.

According to him, the respondents apart from not

having paid the retrial dues, also did not take into account his past services rendered in the Provincial services prior to the services in the Forest Department of the U.P. State. Again, according to him, since at the time when the applicant retired, the new State of Uttaranchal did not come into existence, the question of filing of three sets of pension papers does not arise. In addition, since no interest has been paid over the Group Insurance money, the authority is liable to pay interest on leave encashment @ 18%.

8. Arguments were heard and the documents perused. The respondents i.e. the State of UP had in unequivocal term admitted the fact of the applicant having made available at the relevant point of time necessary sets of pension papers. It was from out of the same that one set was made available to the State of Uttaranchal as stated in the counter (vide extracted above). Thereafter, once again, the UP Government has directed the applicant to send across three sets as the pension matter was to be amended, to the State of Uttranchal. It is not known as to how many times the applicant could be directed to make available the pension papers. Perhaps, it may be on account of the fear that in case the State Department does not throw the blame, the State would be saddled with interest to be paid to the

applicant. Once the applicant has made available full set of pension papers, it is for the Government to act on the same, without driving the applicant to send the papers again. Certain dates and events would be essential to keep in mind at this juncture:-

1.	31.8.91	The applicant superannuated.
2.	1991	The applicant filed O.A no. 1254/91 before this Tribunal seeking a direction to the respondents to pay retiral benefits with interest.
3.	23.4.1993	The applicant had submitted the pension papers and after completing the entire formalities and papers were duly acknowledged by the Special Secretary.
4.	27.3.01	O.A. no. 1254 of 2001 was decided with the direction to the respondent nos. 2 to 4 to pay the amount of gratuity, GIS and leave encashment payable to the applicant within three months with 12% interest from the date of filing the aforesaid O.A. i.e. 12.10.91.
	2000	Creation of Uttranchal.
5.	23.2.2000	Conservator of Forests Wrote a letter to Director, Pension Directorate, Lucknow, the original papers were sent vide letter dated 5.3.94.
6.	17.7.2003	The applicant sent a letter to the Chief Secretary, Forests, U.P., Lucknow wherein he had clearly highlighted that after a lapse of about 11 years, the Chief Conservator of Forests, U.P., Lucknow had dispatched three sets of pension papers for signature in the forms of copies of Photostat.



7.	23.3.04	Director, Pension Directorate, U.P, Lucknow wrote a letter to the Chief Conservator of Forests, U.P, Lucknow and a copy to the applicant to send fresh pension papers.
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9. If only the State Government of UP had seriously kept in mind the dictum of the Apex Court as mentioned above, the matter could have been settled well before the formation of the State of Uttranchal, in which event, the State of UP would not have been burdened with payment of interest on various sums as allegedly paid by them. In fact, as stated in the counter (extracted above), according to the State of UP all the amounts with interest have been paid, save the GIS and interest on GIS, which is due from the Govt. of India. Strange enough, no information or break up of the amount in the form of statement has been furnished by the respondent State of UP

10. What is required is expeditious payment of pension and other dues to the applicant. There is no point in the State Governments to blame each other or any of them to blame the applicant. The State of UP has the responsibility of settling the issue. Hence, on priority basis, the state of UP shall make available to the applicant the relevant

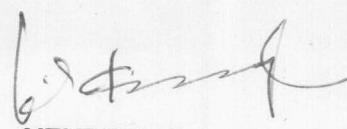


pension papers for due filling up and signature. In case the applicant desires to have the assistance of the State Government in filling up the papers so that there is no come back, the State of UP shall afford necessary appointment to the applicant. Once the forms are filled up and photographs as required are made available to the State of UP, the State would, again, on priority basis, make the papers available to the State of Uttranchal so that necessary pension would be worked out and paid to the applicant. As regards payment of interest on various payments, since according to the State of UP all interests have been paid, a detailed statement should be prepared within six weeks from the date of receipt of the certified copy of this order and the same sent within eight weeks from the date of receipt of this order. In so far as GIS is concerned, the applicant shall have liaison with the Central Government. Whatever amount is payable by the State Government of Uttranchal, by way of arrears of monthly pension (from the date not paid), whatever amount of other terminal dues payable either by the State of UP or State of Uttranchal, and whatever amount by way of GIS is payable by the Union of India, all such amounts shall carry interest @ 12% from the date of superannuation of the applicant as held in the judgment of the Apex Court in the case of Harendra Nath (supra). The

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I save that payable by Uttranchal, which
would pay interest from 2000 only.*

State Government of UP shall coordinate the payments due from the Central Government or State of Uttranchal so that the applicant, retired as early as in 1991, who is in the evening of his life could contact the State of UP only for all such payments instead of his being forced to move virtually from pillar to post (from one Government to the other). It is earnestly hoped that the authorities who are at the helm of the affairs, and who too would be facing retirement one day or the other, would bestow personal attention so that the applicant gets his legitimate dues with interest without any unreasonable delay. A period of six months would, in the most liberal term, suffice to complete the task of working out of the interest on delayed payment under various heads, i.e. arrears of regular pension (payable by State of Uttranchal), other terminal dues (payable by State of UP), payment of regular pension and interest on GIS, payable (as per State of UP) by the Central Government.

11. The OA is disposed of in the above terms. No cost.


MEMBER-J