

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.**

ORIGINAL APPLICATION NO. 733 of 2004.

Allahabad, this the 9<sup>th</sup> day of Decdember, 2005.

**QUORUM : HON. MR. D.R. TIWARI, A.M.**

Jhallar Prasad, Son of, Masuria Deen, R/O, Village Sudhwar, Post Office Faridpur, Sulem, District Kaushambi.

.....Applicant.

**(By Advocate : Sri O.P. Mishra.)**

**Versus**

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

.....Respondents.

**(By Advocate : Sri A.K. Gaur)**

**O R D E R**

**BY HON. MR. D.R. TIWARI, A.M.**

By this O.A., filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for issuance of direction to respondent No.3 to pay 18%

*D. Gaur*

interest on the delayed payment of retiral benefits e.g. pension, gratuity, leave encashment, commutation value and group insurance etc.

2. The facts, in brief, are that the applicant after putting in about more than 37 years of service in Botanical Survey of India superannuated on 30.4.2002. He submitted all required documents/information in connection of payment of retiral benefits in time with the request that it should be processed quickly and retiral benefits may be given to him immediately after retirement. After waiting for a long time, he made a representation dated 30.9.2002 for payment of retiral benefits so as to maintain his family. When nothing came, he approached this Tribunal and filed O.A. No.1526/2002 which was disposed of by order dated 3.1.2003 with a direction to the respondents to dispose of the representation regarding release of retiral benefits within a period of four weeks (Annexure A-2).

3. Inspite of direction by the Tribunal, his retiral benefits were not released which forced the applicant to file Contempt Petition No.43/03 in the above O.A. During the pendency of the Contempt Petition, the retiral benefits were released to him. Details of the benefits paid to him are as under :-

<u>Item</u>	<u>Date of Payment</u>
i) Gratuity	26.4.2003
ii) Leave encashment	27.3.2003
iii) Pension and commuted value	30.5.2003
iv) Group Insurance	23.7.2003
v) Balance of gratuity	31.7.2003

*Dhananjay*

4. His contempt petition was disposed of on 11.11.2003 (Annexure-3).

5. After the receipt of the retiral benefits, he made representation for grant of interest on the delayed payment. Respondents did not agree for the same and aggrieved by this attitude of the respondents, he has filed the instant O.A. and assails the inaction of the respondents for non-grant of interest on various grounds mentioned in para 5 of the O.A. He has submitted that nothing has been paid to him on time and from the statement above, he has argued that he has been paid the retiral benefits almost about a year later than it was due. It has, therefore, been pleaded that this O.A. may be allowed and respondents be directed to pay the interest on the delayed payment of retiral benefits.

6. Respondents, on the other hand, have resisted the O.A. and filed a detailed counter affidavit refuting the claim of the applicant. It has been argued that there was confusion in the pay scales of the applicant. Originally, the pension papers of the applicant were forwarded to the Pay & Accounts office, Calcutta calculating it in the scale of Rs.4500-7000 and Pay & Accounts, Calcutta raised certain objections as the applicant himself, vide application dated 17.6.2002, requested for calculating his pension in the scale of Rs.4000-6000 (CA-1). Finally, the respondents have further argued that delay in making the pension was caused as certain objections were raised by the Pay & Accounts Officer and secondly when the finalization of pension of the applicant was pending for consideration, a policy decision at the level of the Ministry was taken and the applicant and other

*D. Deva*

similarly situated persons were entitled for pension as per the scale of Rs.4500-7000. As such, some delay has occurred in finalizing the pension of the applicant. They have further argued that for grant of provisional pension, the applicant was required to sign certain papers for which he was called in the office and after coming to the office, for reasons best known to him, he refused to sign the provisional pension bills which caused further delay in finalizing his pension papers. They have submitted that the delay, if any, cannot be attributed to the respondents only and, to some extent, the applicant is also responsible for the same. In view of this, it has been submitted that the O.A. lacks merit and be dismissed.

7. During the course of the argument, counsel for the applicant has reiterated the facts and the legal pleas from the pleading of the applicant and has also relied on the following case laws :-

- i) Vijay L Mehrotra Vs. State of U.P. & Others, 2002 SCC (L&S) 278 and
- ii) Dr. Uma Agrawal Vs. State of U.P. & Others, JT 1999(2) SC 359.

8. Counsel for the respondents, on the other hand, has refuted the claim and contention of the applicant's counsel and has heavily relied on the pleadings made in the counter affidavit. It was argued that whatever delay was caused, was mainly because of completing the certain formalities and in meeting the objections raised by the Pay & Accounts Office. It has also been submitted that refusal by the applicant to sign the provisional pension bill also contributed to the delay.

*N. D.*

9. I have heard the rival submissions made by the counsel for the parties and perused the records.

10. From what has been stated and discussed above, there is no doubt that payment of the retiral benefits in this case has been delayed and in some of the items, it has been delayed beyond a year. Nothing has been paid to the applicant on time. The statement of various items of retiral benefits along with the date of payment made in Para 3 above, gives a clear picture that respondents have failed to make the payment of retiral benefits on time. It may be pertinent to notice the opinion of the Supreme Court in the case of Vijay L. Mehrotra (supra) wherein it has been stated that in case of an employee retiring after having rendered service, it is expected that all the payments of retiral benefits should be paid on the date of retirement or soon thereafter if, for some unforeseen circumstances, the payments could not be made on the date of retirement. The observation of the Apex Court in the case of Dr.Uma Agrawal may be quoted with benefit, which is as under :-

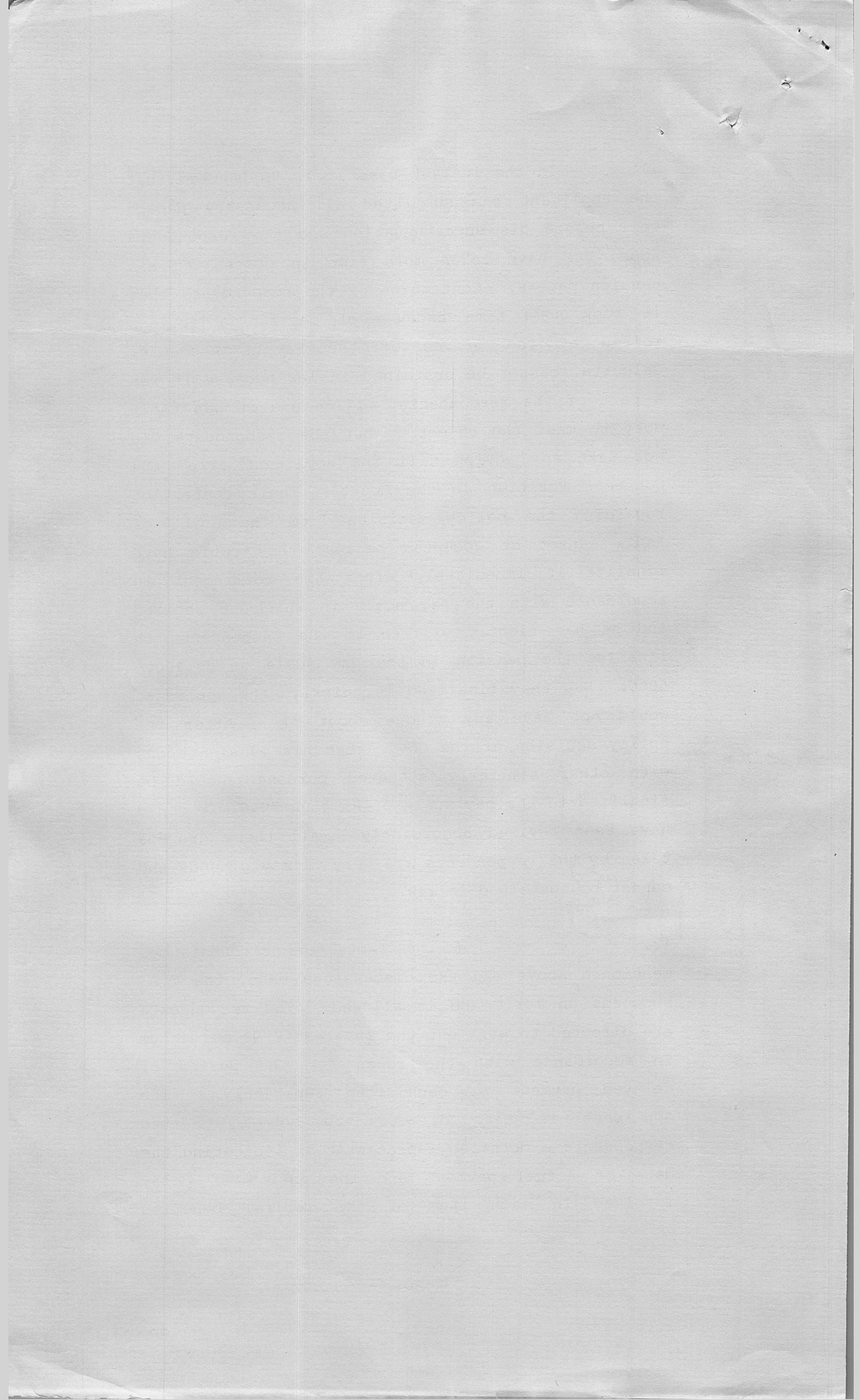
*"In State of Kerala & Others v. M. Padmanabhan Nair [1985(1) SCC 429], this court, stated that the necessity for prompt payment of the retirement dues to a government servant immediately after his retirement could not be over-emphasised and it would not be unreasonable to direct that there would be a liability to pay penal interest on these retirement benefits. In several cases, decided by this Court, interest at the rate of 12% per annum has been directed to be paid by the State."*

*Haa* .

11. In the instant case it is undisputed that the applicant has submitted all necessary papers well before his superannuation and the respondents appear to have taken more time in processing his pension papers. Contention of the respondents that it took some time because of certain objections raised by the Office of the Pay & Accounts, Calcutta, cannot be sustained in law because it was a part of the respondents' office and it was their duty to meet the objection but the respondents did not take any action till the applicant filed the Contempt Petition in the Court. Their contention regarding the policy decision from the Govt. of India cannot be accepted because they could have finalize it immediately after his retirement in accordance with the pay scale in which he retired and he has rightly written to the respondents to finalize the pension in the pay scale of Rs.4000-6000. Had they finalized it quickly, the applicant would not have any grudge about it. After the policy decision of the Govt. that his pension along with other similarly situated persons should be finalized in the pay scale of Rs.4500-7000, it could have been revised accordingly. All these grounds taken by the respondents are very flimsy grounds and cannot be sustained in law.

12. 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 out 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 retiral benefits

*S. Basu*



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.

No order as to costs.

*Asthana*  
A.M.

Asthana/