

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
Allahabad Bench
Allahabad

Original Application No.734 of 2004

Allahabad, this the 13th day of November, 2007.

Hon'ble Mr. P.K. Chatterji, Member-A

Vijendra Singh aged about 69 years,
 Son of Late Shri Tikam Singh,
 Resident of 16/1 Shakti Nagar, Gwalior Road,
 Agra-282001.

...Applicant.

(By Advocate : Shri Swayamber Lal)

Versus

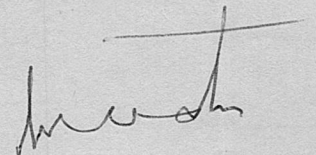
1. Union of India, through Secretary, Government of India, Ministry of Defence, New Delhi-110011.
2. Director General E.M.E. (E.M.E.-Civ.) Army Headquarters D.H.Q.P.O., New Delhi-110011.
3. Officer-in-Charge Records, E.M.E. Record Office, Secunderabad (A.P.).
4. Commandant 509 Army Base Workshop, Agra.
5. J.C.D.A (Funds) Meerut.

...Respondents.

(By Advocate : Shri S. Singh)

ORDER

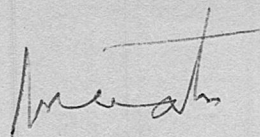
The matter agitated in this OA by the applicant is simple. He retired from service in the year 1993. At the time a charge sheet for major penalty was pending against him. All his retiral dues G.P.F., CGEGIS and Gratuity etc. were withheld by the respondents. The charge sheet, however, ended after exoneration of the official. On 2.9.2002, the respondents i.e. Ministry of Defence issued orders that the President in exercise of the powers under Rule 9 of CCS (Pension) Rules, 1972 decided to drop the proceedings against the applicant. It was also noted in the order that the lapse on the part of the applicant did not warrant any penalty under CCS (Pension) Rules, 1972. It is also submitted by the respondents at the time of hearing that the suspension period of the applicant was also later treated on duty by the Competent Authority.



2. The applicant has prayed that the Tribunal direct the respondents to pay him interest for delayed payment of his retiral dues. The respondents counter the claim of the applicant saying that as a case for major penalty was pending against him, they could not take any action for payment of the retiral dues. The payment could be made possible only after the conclusion of the disciplinary case. The respondents have also stated that delay in respect of GPF was due to lapse on the part of the applicant as he did not turn up in time to take payment of the GPF deposit and for that reason the delay occurred. Regarding the other dues, the respondents stated that after conclusion of the case pending against him, notice was issued to him in the year 2003. However, the applicant again failed to report for taking payment in time and, therefore, a little delay occurred after conclusion of the disciplinary proceedings.

3. During arguments, learned counsel for the applicant stated that as the disciplinary proceedings ended in his favour and the suspension period was also treated as spent on duty, he should be given interest for the delay in payment of the retiral benefits. In this connection, he has cited the Principal Bench of this Tribunal judgment in OA No.1174/01 dated 8.2.2002 as follows :-

"The appeal is allowed to the above extent. Perusal of the above order makes it clear that delayed payment of GPF amount, leave encashment, gratuity, commuted pension etc. would attract payment of interest. This would be the position in the case of the applicant also, though the delay had arisen on account of the pendency of disciplinary proceedings against him, but as the proceedings have been dropped and he has been exonerated, it is as if, the proceeding did not exist. Respondents themselves accept that interest on delayed payment of DCRG is payable. Interest on delayed payment of leave encashment is opposed by the respondents holding that it was not covered by Pension Rules, for which they rely upon DOPT's OM dated 05.10.1999. However, in view of the fact the amount belonged to the applicant and was held back, he is entitled to get it, in terms of the Hon'ble Supreme Courts decision referred above. Interest on delayed Provisional Pension from the date of retirement to the date of actual payment i.e. from 01.04.1996 to November, 1997 is correctly payable. As the applicant became eligible for pension only on completion of the proceedings, where after even differential amount of pension following Vth Central Pay Commission recommendations has been given no further dues were there. Revision of any provisional pension was not called for. No interest was payable on this amount. As the PF amount remained with the respondents from 01.04.1996 to March 1999, interest is due thereon. Respondents' statement that they had prepared the cheque is of no relevance as there is no indication that the applicant was informed to collect the same. Regarding commutation value, the respondents view is that the entitlement arises only from the completion of proceedings is legal but once the proceedings end in the exoneration, it is as if they did not exist and therefore, the entitlement goes back to the date of retirement. As the payment has been delayed, interest is due thereon as well. In the circumstances, in my view the

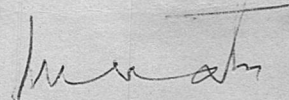


respondents have become liable to pay to the applicant interest on the delayed payment of DCRG, commutation leave encashment, provisional pension of PF amount, but the same is not payable on difference of pension. In the circumstances of the case, I feel that interest @ 10% on the amounts from the dates on which the payments became due and the date on which they were paid would be justified."

4. I am convinced by the argument placed by the applicant and the records produced in support thereto. The respondent's explanation regarding the delay is not tenable. The fact remains that the disciplinary proceedings remained pending for about 10 years, for which the applicant was not responsible. It was also acknowledged by the respondents that the charges were not so serious as to warrant any action under the CCS (Pension) Rules. The applicant has therefore been able to establish his claim for interest but I am of the view that interest of 18%, which he has asked for, is rather high. The respondents are directed to pay him interest for the period of delay as given in Annexure-27 of the OA at the rate which is applicable to GPF i.e. 8%, in respect of all retiral benefit except for GPF for which the delay was very marginal. This may be done within a period of one month from the date of receipt of copy of this order.

5. With this direction, the OA is disposed of.

No order as to costs.


Member-A

RKM/