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Reserved

Central Administrative Tribunal, Allahabad

Registration O.A.No.651 of 1986

Vishwa Nath Agarwal ...

Applicant

vs.

Union of India and another ...

Respondents.

Hon'ble D.S.Misra, AM
Hon'ble G.S.Sharma, JM

(By Hon'ble G.S.Sharma, JM)

The Applicant who had joined the Railway service as a Clerk in 1944 retired from service on 31.11.1983 on reaching the age of superannuation. The gratuity, commutation amount of pension, group insurance money, leave encashment and pension upto 30.9.1985 were not paid to him immediately after his retirement. He accordingly filed this Original Application u/s.19 of the Administrative Tribunals Act XIII of 1985 on 6.11.1986 claiming Rs.11502.20P as interest on the aforesaid amount for the period of delay at the rate of 12% per annum. His allegation is that the payments were wrongly withheld by the Respondents and he was deprived of the benefit of his money and under the law he is entitled to interest.

2. The Respondents have contested the case and in the reply filed by them it has been contended that the case of the Applicant is time barred and is liable to be dismissed on this ground alone. It has been further stated that the Applicant had earlier filed suit no. 62 of 1967 against the defendants in the Civil Court at Moradabad and the original service record of the Applicant was produced in Court in that case. The said record could be obtained by the defendants only on 18.11.85 and thereafter the necessary steps were taken to clear the payments of the Applicant and there has been no delay on the part of the defendants and the Applicant is not

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entitled to any interest. It has also been stated that earlier, the Applicant had filed O.A.no.241 of 1986 claiming interest on the withheld amount of his gratuity and the said case was decided by this Tribunal on 28.10.1986 and his present petition is not maintainable under the law. It is alleged that the Applicant himself had submitted his pension papers very late on 29.11.1985 and he is not entitled to any relief.

3. As stated above, the applicant has claimed interest for the delay in making his settlement dues mentioned under 5 heads in para 6(12) of the petition. The first amount is of Rs.17,613.75 on account of gratuity which was paid to him on 13.5.1985, about 17 months ^{payment of} ~~after~~ his retirement. The copy of the judgment dated 28.10.1986 of a Bench of this Tribunal in T.A.No.241 of 1986 filed by the Applicant was brought to our notice on the date of the hearing of this case and it is now available on the record. In this transferred suit he had claimed interest on the aforesaid amount of the gratuity due to delay in payment and this Bench had held that the Applicant is entitled to interest on account of the delay in payment in view of the instructions of the Railway Board issued on 16.11.1984 and he was accordingly allowed interest at the rate of 7% beyond 3 months upto one year and 10 per cent beyond one year till the date of payment. The present petition for payment of interest on the amount of gratuity is, thus, clearly barred by principle of res-judicata and is not maintainable. We will also like to observe that the claim to this extent is malafide ^{applicant was} as he filed this petition concealing the fact of his filing the earlier T.A.No.241 of 1986.

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4. The Hon'ble Supreme Court has repeatedly held that pension and gratuity are no more bounty and if they are not paid within a reasonable time, the retired employees are entitled to interest. In the light of the decisions of the Hon'ble Supreme Court the Applicant can be awarded interest for the delay in making the payment of his pension from 1.12.1983 to 30.9.1985 as the first payment of the pension is shown to have been made to the plaintiff on 26.10.1985. ^{3 Giving the respondents 3 months time due to late submission of pension papers by the Respondents} We order that the Respondents shall pay interest to the Applicant at the rate of 12 per cent per annum on the arrears of pension payable to him from 1.12.1983 to 30.9.1985. We may mention that the cause shown by the Respondents for the delay of more than 17 months is not justified. The Respondents could take the service record of the Applicant from the Civil Court much earlier as his case was finally decided in 1969. Even after the receipt of his service record, the Respondents took several months to finalise his settlement dues.

5. Regarding the amount of commuted pension, we feel that the same principle will apply but as the Applicant had submitted his pension papers on the last working day of his service i.e. on 30.11.1983, the commuted pension could not be finalised the same day. We will, therefore, like to allow a period of 3 months to the Respondents for calculating the amount of his commuted pension and the Applicant is awarded interest on the commuted amount of pension at the rate of 12 per cent from 1.3.1984 till the date of its payment.

6. Regarding the interest claimed on Group Insurance and leave encashment, we have neither been shown any precedent nor any rule under which the Applicant may

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be awarded interest and in view of the fact that the Applicant himself is responsible for some delay on account of late submission of the pension papers, which are required to be submitted atleast 6 months before the date of retirement, we are not inclined to award any interest to him on the delayed amount of his group insurance and leave encashment and his claim for the same is rejected.

7. The Application is disposed of accordingly without any order as to costs.

S. Narayana

MEMBER (J)

K. S. Narayana

MEMBER (A)

DATED: *July 4, 1989*

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