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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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O.A.No. 21215/1987

Sri. Navbahar Singh Applicant

Versus

Union of India and another Respondents.

Hon 'ble Mr. K.Chayya, A.M.

Hon 'ble Mr. S.N.Prasad, J.M.

(By Hon 'ble Mr.K.Chayya, A.M.)

The short point involved in this application relates to payment of interest on delayed payment of gratuity. The case of the applicant is that he retired from service in the post of Asstt.Post Master in the postal department on superannuation on 31.7.1982. While still in service there was a disciplinary proceeding against him. He was kept under suspension, that suspension however was revoked later. According to the applicant, the inquiry was concluded on 31.7.82. He has not received any punishment order and he retired on normal terms on 31.7.82. However by a memo no.D/12 dt.15.5.86. (Annexure no. 2) he was informed that the disciplinary case has been dropped. Shortly thereafter he was also paid the gratuity amount of Rs.13,411.20

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on 20.5.86. The applicant claims interest for the delay in payment of Gratuity, as the delay in finalising the disciplinary matter cannot be attributed to him. So far as he is concerned the inquiry was concluded before he retired from service. Respondents stand in the counter is that the disciplinary case was dropped on 15.5.86 on that day he was paid gratuity, therefore he was not entitled for any interest as the delay was due to the fact, that there was a disciplinary proceeding pending against the applicant. The department relies on a Government order dt. 28.7.84 which is annexed as annexure 1 to the counter, according to which the amount of Gratuity allowed to the employee on the conclusion of proceeding will be deemed to have fallen due w.e.f. the date of issue of the orders of the competent authority in the disciplinary matter. In this case the disciplinary proceedings were dropped on 15.5.86 and immediately, thereafter, the Gratuity amount was paid.

2. On the payment of interest due to delay in settling gratuity, the government orders are to the effect that for the delay between 3-12 months the interest will be calculated on 7% per annum, and beyond one year 10% interest should be paid. The learned counsel for the applicant has drawn our attention to the decision of the Supreme Court in the case of State of Kerala Vs M. Padmanabhan Nair (1985)(1) ASLJ Pg. (106) wherein it was held that the Govt. is liable to pay interest on delayed payment of pension/gratuity at the market rate, and the calculation of the interest should be reckoned at the expiry of 2 months

from the date of retirement. The Supreme Court observed "Pension and Gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

The respondents have not come up with any explanation as to why there was abnormal delay in taking decision in the disciplinary matter when the departmental inquiry was concluded even before the retirement of the applicant. At any rate the applicant was not involved in any enquiry proceeding after his retirement, and he cannot be made to suffer for what was not his fault.

3. Taking the facts and circumstances of the case we are of the view that the applicant is entitled to receive the interest on the delayed payment of gratuity. The applicant cannot be held responsible for the delay in finalising the disciplinary matter, and that there was no further enquiry after the applicant retired. We consider that payment of interest to the applicant for the delayed payment gratuity^{is} justified and accordingly^{the} we direct the respondents to pay to the applicant/interest on Rs. 13,411.20 at the rate of 10% per annum for the period 1.11.82 till the date of actual disbursement. Interest should be calculated and paid to the applicant within 3 months from the date of receipt of the copy of this order. The application is allowed as above parties to bear their own costs.

J.M.

A.M.

ALLAHABAD
DATE 15/5/1991
(CW)