

THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(15)

Original Application No.1351/88

S. S. Seach

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Applicant

Veraus

Union of India & others

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Respondents

Hon'ble Miss Usha San -Member (A)

The case of the applicant is briefly stated below:

2- The applicant retired as Asstt.Engineer from the office of the Chief Engineer, Bareilly Zeme, Bareilly, on 30-6-87 on attaining the age of superannuation. Various claims of his on account of pay and allowances, GPF,CGEIS etc., had not been paid upto the date of his retirement.

Subsequently, some of these claims were paid and as on the date of his filing the application the following claims still remained to be paid as per para-4(vii)(vii) of the application:-

(i)Rs.1618/- | on account of pay & allowances.
 Rs.5214/-

(ii)Rs.24948/- on account of leave encashment.

(iii)Rs.16855/- on account of G.P.F.

The applicant sought the relief of payment of the above mentioned dues as well as interest on the same @ 18% per annum. He also sought the relief of payment of interest @ 18% on all other amounts which were paid to him after his retirement but before the date/filing the application. These amounts as stated in para-4(i) to (vi) of the application were Rs.1065/- (pay and allowances), Rs.17485/- and Rs.34271/- (GPF), Rs.2323/- (CGEIS) and Rs.26566/- (Pay and allowances).

3- The respondents in their counter affidavit have stated that all the amounts which were outstanding on the date the application was filed as per para-4(vii)(vii) thereof have been since been paid. In addition the interest of Rs.3077/- on the outstanding GPF amount had also been paid. As regards the payment of interest on pay and allowances, they have stated in para-30 of the counter affidavit that the same

is not covered by rules. They have also stated in para-17(a) and (b) that the delay in payment of his dues was caused on account of the failure of the applicant to comply with procedural actions in order to regularise his prolonged unauthorised absence from 11-4-83 to 10-1-⁸⁵ and the processing of claims through five different offices which was also necessitated on account of his long absence.

4- In para-37 of the Rejoinder Affidavit the applicant has admitted the payment of the outstanding amounts as enumerated in para-4(vii)(vii) of his application but has claimed payment of interest @ 18%. In para-36 he has also admitted payment of interest on the GPF amount but has sought the relief of payment of interest @ 18% on the same ^{over} ~~once~~ and above the interest paid to him. He has asked for payment of interest on all amounts that were due to him for the period calculated after two months from the date of retirement upto the date of actual payment of each amount.

5- In deciding this case, it would be relevant to quote the following observations from the judgment delivered by the Calcutta Bench of the C.A.T. in O.A.No.520 of 1986 Md. Abu Taleb Vs. Union of India and others regarding payment of interest on retirement benefits:

"Undisputedly it is quite well settled principle of law now that if such retiring benefit is withheld or not paid by the Government or any employer for their laches within a reasonable time such amount shall carry interest."

This O.A.No.520 of 1986 mentioned above was one of the delayed payment of arrears of pension arising consequent to revision of pension. It is also seen that in Jamini Kanta Das Vs. Union of India (AIR 1955 Cal.45) the Calcutta High Court had held that if a person is not paid his due salary, he is entitled to compensation for such withholding of payment by way of interest and had allowed interest @ 6% on the difference in the salary

paid to the appellant and what was due to be paid to him from the date the applicant was discharged from services upto the date of payment.

In the present case

6- The respondents have affirmed in para-17 of their counter affidavit that the delay in payment of his dues was caused due to the failure on the part of the applicant to "comply procedural actions in order to regularise the unauthorised absence from duty (from 11-4-83 to 10-1-85) and because the claims had to be processed through five different offices which was also necessitated on account of the long absence of the applicant for which the department cannot be held responsible. However, the respondents have not specified the particulars "procedural actions" which the applicant did not comply with in order to regularise his absence. It is also seen that some of his claims for pay and allowances related to a period prior to the said unauthorised absence. On the other hand the applicant has not admitted that the delay was caused on account of his fault. In these circumstances, I am of the view that the responsibility for delay in payment can not be pinned on the applicant. Further, the applicant had rejoined duty on 11-1-85 after his "unauthorised absence". This was almost ~~one~~^{two} and a half years before he retired on 30-6-87. It is considered that this period was sufficient for the department to complete all procedural requirements for payment of all his claims at the time of his retirement or within two months from that date.

7- Considering the law on the subject and the circumstances of the case, I hold that the relief of payment of interest for the period following two months of the date of his retirement as desired by the applicant is justified. However, his prayer for the payment of interest @ 18% is not accepted. The payment of interest @ 9% would meet the ends of justice.

8- In the light of the examination of the case as

(4)

narrated above the respondents are directed to pay interest @ 9% on all the dues paid to the applicant after his retirement for the period following two months from his retirement upto the date of actual payment. The application is allowed to this extent. No order as to costs.

Usha Devi

MEMBER - Administrative

DATED: Allahabad 22 November, 1993.
(ISPS)
