

RESERVED

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLO BENCH
ALLAHABAD

DATED: On this 30th Day of April, 98.

CORAM : HON Mr. D S BAWEJA, A.M.
Hon Mr. J P SHARMA, J.M.

ORIGINAL APPLICATION NO. 1162 OF 1992

Manohar Ram a/a 59 years,
son of late Lekhan Ram, R/o
C/178/49-c, Mahalla Daudpur
P.O. Gorakhpur (Main) District:
Gorakhpur Applicant.

(C/A Shri Pankaj Srivastava)

Versus

1. Union of India
2. Commissioner of Income Tax,
Central Revenue Building,
38 M G Marg, Civil Lines,
Allahabad.
3. Assistant Director of Income Tax
(Investigation) Income Tax Office
Gorakhpur.
4. Zonal Accounts Officer,
Central Board of Direct Taxes
Central Revenue Building,
38 M G Marg, Civil Lines
Allahabad.
5. The Accountant General
Uttar Pradesh-II (P.A.II Section)
Allahabad
6. Accounts Officer, Zonal Account
Office, Central Board of Direct Taxes
38 M G Marg, Civil Lines
Allahabad

.... Respondents.

(C/R Shri Amit Sthalekar)

ORDER

(By Hon'ble Mr D S Bawaja, A.M.)

The applicant while working as Income Tax Inspector
in the Office of Asst Director of Income Tax (Investigation)

Gorakhpur, retired from service on 31.01.91. Applicant

(D)

submits that he had submitted the necessary papers for payment of retiral benefits about three months before due date of retirement but inspite of this, the payment of General Provident Fund (GPF), Death-cum-Retirement Gratuity (DCRG), Commuted portion of pension and leave encashment were not ~~paid~~ ^{made} to him on the date of retirement. These payments were delayed and were finally paid as per the dates given below:-

	<u>Amount in Rs.</u>	<u>Date of Payment</u>
(1) G.P.F.	1,56,445/-	8-7-91
(2) DCRG	46,857/-	7-6-91
(3) Commuted value of Pension	59,371/-	25-03-91
(4) Leave encashment	35,032/-	16-04-91

The main contention of the applicant is that as per the extant rules, he was entitled for the payment of the above settlement dues on the next date from the due date of retirement and for any delay, he is entitled for payment of interest. The applicant made representation on 1-4-92 for payment of interest. This was followed by several representation but he did not get any response. Being aggrieved, the present application has been filed on 17.08.92 claiming the interest of Rs.20,211/- calculated @ 20% per annum. The applicant has also claimed the relief of payment of interest on the delay in payment of the calculated interest of Rs.20,211/-.

2. Respondents have filed CA stating that delay in payment of various retiral benefits had taken place on account of the applicant as he did not submit the requisite forms for the varieus payments before the stipulated period. In respect of G P F, respondents submit that the applicant made an application for release of GPF only on 11-2-91. The payment was thereafter

arranged and the draft was despatched to the applicant on 9.4.91. In respect of the pension and gratuity, papers were sent by the applicant only on 12-12-90 though under Rule 61 (4) of CCS (Pension rules) the same were required to be submitted not later than six months before the date of retirement. Due to this delay in submission of papers, the payment of commutation of pension could not be arranged on the due date of retirement. In respect of DCRG, some recovery was required to be made on account of payment of higher pay made to the applicant when he was appointed as U.O.C. The applicant made several representations against the same and after examination of the representation by the competent authority, gratuity was finally released on 7.6.91. For the grant of leave encashment, respondents have submitted that applicant made an application only on 5.2.91 and thereafter the payment was arranged within a short period and final payment was made on 16.4.91. Keeping these facts in view, respondents contended that the applicant is not entitled for the interest as claimed. However, Respondents have allowed the interest on the GPF upto March'91 in terms of decision 5 of below rule 11 of GPF rules. The respondents therefore pleaded that the present application is devoid of merits and deserves to be dismissed.

3. Applicant has filed RA controverting the averments of the respondents and reiterating his grounds in the original application. Applicant also controverted the contention of the respondents and stated that he submitted pension papers on 12.10.90 and not on 12-12-90.

4. On the date of hearing, counsel for the applicant was not present. As per the earlier order, last opportunity was allowed in view of the facts that the applicant was not present on the several earlier dates. Since the applicant was neither present nor any adjournment sought, in terms of the order dated 18.3.98, we proceeded to hear the arguments of the counsel for respondents.

5. From the rival averments, the short question which is required to be deliberated is whether the delay in payment of the retiral benefits was due to the applicant as claimed by the respondents or the delay was on account of administration. The respondents have submitted that the application for payment of GPF was made by the applicant only on 11-2-91 i.e. after the retirement. This resulted in delay in arranging the payment. Respondents have stated that the bank draft was dispatched on 9.4.91. The applicant on the otherhand/has stated that he received the payment only on 8.7.91. Respondents though in the CA have stated that the applicant is not entitled for the interest upto 8.7.91, but no explanation/as to how the draft which was sent to the applicant on 9.4.91, had been received by the applicant on 8.7.91. From the facts brought on record, we have no doubt to accept the contention of the applicant that he actually received the payment of GPF on 8.7.91. The respondents have indicated that the payment of the interest has been allowed upto March 91 in terms of the provisions contained in decision 5 Below rule (11) of GPF rules. The applicant on the otherhand has stated that he has received payment of interest only upto Feb'91. Applicant has not furnished any details to controvert the contention of the respondents and we therefore take it that interest has been allowed upto March 91. If even after making an application for the release of GPF amount on 11-2-91, respondents have accepted the liability of payment of interest, this would imply that the payment was required to be made to the applicant on the date of retirement. It is also established as indicated earlier that actual payment was made to the applicant on 8.7.91 only. If as per the rules applicant was entitled for payment of interest for delay in payment, it is obvious that the interest is required to be paid to the applicant till the date of actual payment.

Since the actual payment has been made on 8.7.91, we are not 5/- ..

able to accept the contention of the respondents that the applicant is not entitled for payment of interest till this date. as per the rules cited by them. The contention of the respondents is not tenable and therefore, applicant is entitled for payment of interest on GPF for delay in payment till 7.7.91.

6. As regards the delay in payment of commuted portion of the pension and DCRG, respondents have submitted that the applicant has filed the requisite papers only on 12-12-90. The applicant on the other hand submitted that papers were filed on 12-10-90. Referring to CA-3 we note that the contention of the respondents is not correct and the papers have been filed by the applicant on 12-10-90. Respondents have taken a plea that as per the rule 61 (4) of CCS (Pension Rules), the applicant was required to submit the papers six months before the due date of retirement and late submission of papers has resulted in delay in payment of DCRG and computation of pension. We are unable to accept the assertions of the respondents. Referring to CA-3, we find that it is provided that Head of Office will obtain the papers eight months before the date of retirement. This would imply that it is the responsibility of the administration to obtain the papers duly signed by from the retiring employee. If retiree is asked to submit the papers and he delays it, then the responsibility will be that of retiring employee for any delay in payment. In the present case, respondents have not come out with any plea that the applicant was directed to submit the papers as per the schedule laid down and he delayed the submission of papers. Further with the submission of the papers even if

there was any delay in submission of papers, we find that there was sufficient time available for processing the case of the ^{the} on the date of for payment settlement dues ^{for} retirement as per the extant rules. Therefore, the contention of the respondents that the delay in payment of DCRG and computation of pension is attributable to the applicant, is not acceptable. We, therefore, hold that the applicant has been denied payment of the DCRG & ^{the} commutation on the due date and ^{is} therefore, entitled for interest for delay in payment.

7. In respect of the payment of leave encashment, respondents have submitted that applicant made a request only on 5-2-91 i.e. after the retirement and therefore, applicant is responsible for the delay in payment. The respondents have not indicated any rules under which applicant was required to make any application for payment of leave encashment. It was incumbent on the part of the respondents to workout the balance leave due to the applicant and arrange payment of the same as leave encashment on the due date. We are unable to accept the contention of the respondents that delay was caused on account of applicant.

8. Keeping in view the above deliberations, we conclude that the delay in payment of settlement dues is not attributable to the applicant and delay has been caused by the respondents and therefore, applicant is entitled for payment of interest. Applicant has claimed payment of interest of 20% per annum. Keeping in view what is held by the full Bench in the case of BALACHANDRA CHINTAMANI

GADGIL VS. UNION OF INDIA 1997 (2) ATJ 303, we allow the instead of 20% p.a. claimed. interest of 12% p.a. for the delay in payment of GPF, DCRG,

commutation of pension and leave encashment. The applicant has also claimed for payment of interest on delay in payment of the interest which he has sought as relief through this O.A. We do not find any merit in this relief and the same is not allowed. The direction shall be complied with within 3 months from the date of receipt of this order.

9. Keeping in view the above deliberations, the O.A. is allowed with the directions to the respondents as detailed in para-8 above. No order as to costs.

Lishay
Member (J)

Obey
Member (A)

Snt/-