

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1312 of 1992

Allahabad this the 4<sup>th</sup> day of June 1999

Hon'ble Mr. S.L. Jain, Member ( J )

Kamla Devi, aged about 55 years w/o Late Sri R.C.S. Chauhan,  
R/o C/o Rajpal Singh, Teachers Colony, Dhampur, Distt.  
Bijnor.

Applicant

By Advocate Shri Anand Swaroop Saxena

Versus

Union of India through the Secretary (Telecommunications)  
Ministry of Communications, Govt. of India, Dak Tar Bhawan,  
New Delhi - 110001.

Respondent

By Advocate Shri N.B. Singh

ORDER (

By Hon'ble Mr. S.L. Jain, Member ( J ) -

This is an application under section 19 of  
the Administrative Tribunals Act, 1985 for a direction  
to the respondents to pay within a fixed time the amount  
detailed in Annexure A-5 and A-6.

2. To be very specific Annexure -5 and Annexure-6  
are as under;

*S.L.Jain* - .... pg. 2/-

Annexure 5

Details of Dues which became due to the Applicant as Pensionary benefits in view of C.A.T. New Delhi Order dated 29/8/88 and 16.10.89 (A-1 & A-2).

The pay (calculated by the Respondent vide their Memo dated 19/9/91 is Rs.530/- P.M.

The gratuity paid is for the period of 27½ years (58 to 85) and is Rs.18759/-.

According to it the pay and allowances of Sri R.C.S. Chauhan on 22.11.1985 was Rs.1390/- P.M.

This is the basis of calculation of the dues etc.

The pension for service of 27½ years comes to Rs.579/- per month.

(1) Arrears of pay from 01.11.85 to 22.11.85	Rs.579/-	Rs.1019-00
(2) Interest at 12% from 01.12.85 to 31.3.87		Rs.163-00
(3) Pension payable from 23.11.85 @ Rs.579/- p.m. from 23.11.85 to 30.6.86.		Rs.4298-00
01/7/86 to 31.12.86 @ Rs.579 + 29)		Rs.3648-00
01/1/87 to 31/3/87 @ (570+58)		Rs.2016-00
		Unpaid Rs.9962-00

Interest @ 12% over the unpaid pension Rs.6496-00

(4) Gratuity of Rs.11475/- was paid on 31.3.87 Rs.1200-00 A and Rs.7284/- were paid on 27.9.90. Interest on A from 01.12.85 to 31.3.87 @ 12% P.A. from 01.12.85 to 27.9.90. Rs.3642-00

(5) G.P.F. amount Rs.

Interest from 01.12.85 to 31.3.87 @ 12%

(6) Group Insurance Rs.2080/- paid in April 87.

Interest on this amount at 12% from 01.11.85 Rs.3744-00 to April 87.

(7) Leave Encashment at Rs.1390/- p.m. for 240 days from 14.11.07 to 05.9.74

Rs.11120-00

( 889 )  
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Interest 12% on the above from 01.11.85 to  
31.8.92. Rs. 9118-00

(7) Arrears of Pay from 13.11.67 to 06.9.74 Rs. 15000-00  
Interest @ 12% from 1/10/74 to 31/8/92 Rs. 27000-00

(8) Interest on arrears of pay from 74 to  
91. Rs. 17351-00

(9) Interest @ 12% P.A. over the arrears  
of pay for the period from 74 to 89. Rs. 15615-00

( Kamla Devi ) "

" Annexure-6

Details of amount claimed by the applicant from the Respondent.

(1) Amount of Encashment of Leave for 240 days  
from 14.11.67 to 05.9.74. Rs. 11120-00  
Interest over it 01.11.85 to 31.8.92 Rs. 9118-00

(2) Interest over Group Insurance  
( 01.11.85 to 1/4/87) Rs. 3774-00

(3) Interest over arrears of pay 01.11.85  
to 22.11.85 and 01.12.85 to 31.3.87 on  
10.1.91. Rs. 103-00

(4) Interest on arrears of pension from  
01.12.85 to 31.3.87 Rs. 996/- Rs. 1496-00

(5) Interest on Gratuity from 01.12.85 to  
\_\_\_\_\_ on \_\_\_\_\_ and from 1.12.85  
to \_\_\_\_\_ on \_\_\_\_\_ Rs. 304/-00

(6) Interest on arrears of pay for the  
period 13.11.67 to 06.9.74 Rs. 27000-00  
Rs. 15000/- at 12% from 74 to 88 (30.9.88)

(7) Interest on arrears of pay from 7/9/74 to  
91 (8501+8850) = Rs. 17351-00 Rs. 15615-00

(8) M.R. Bill-Is Rs. 1100-60

(9) Arrears of H.R. Allowance from 67 to 85 Rs. 2000-00

(10) Cost of Litigation with counsel's fee Rs. 2000-00

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(11) Compensation for causing death of  
Sri R. C.S. Chauhan by the Deptt.  
Officers.

Rs.100000-00

Rs.176998-00

Rupees One Lac Seventy six thousand nine hundred  
ninety eight only.

( Kamla Devi )  
Applicant

3. On perusal of annexure-5 and 6, it is clear  
that all the items mentioned in annexure-5 are covered  
by annexure -6 and also includes medical reimbursement  
bills for Rs.1100-60, house rent all-owance Rs.2000/-, cost  
of litigation Rs.2000/-, compensation Rs.100000-00, interest  
on arrears of pay Rs.27,000/-, amount of incashment of leave  
(additional amount Rs.11120-00 and unauthorised deduction  
on 31.3.87.

4. There is no dispute between the parties in  
respect of the fact that applicant filed O.A. No.598/86  
before the Principal Bench, Central Administrative Tribunal  
New Delhi which was decided on 29.8.88. A review application  
was filed against the said order which was registered as  
R.A.No.128 of 89 which was decided on 16.10.89. The contempt  
petition was also filed which was numbered as C.C.A.100/91  
and was decided on 04.5.92.

5. The O.A. No.598 of 1986 was filed for the  
following reliefs;

"Para-7-Relief sought-In view of the facts mentioned

M.D.

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in para 6 above the applicant prays for the following reliefs:-

- (a) It be declared that the period of compelled absence of Sri R.C.S. Chauhan from 13.11.67 to 06.9.74 was duty for all purposes including pay and allowances, leave and other benefits.
- (b) As a consequence relief to the above relief the service from the date of appointment to the date of his death 22.11.85 be reckoned as one spell of service, his pay be fixed in 1973 days on the basis of his continuous from 1958.
- (c) As a consequence to (a) and (b) the arrears of pay from 13.11.67 to 06.7.74, the difference of salary between the newly fixed salary 1973 days and the amount already drawn be ordered to be paid to applicant.
- (d) The benefits according to the official on retirement or death be calculated on the basis of the revised emoluments arrived at under after the addition of increments.
- (e) The pension be ordered to be recalculated on the basis of the revised emoluments as in (d) and so the gratuity.
- (f) As a consequence of treatment of the period from 13.11.67 to 06.9.74 the encashment for the leave due for this period be ordered to be paid to the applicant.
- (g) The G.P.F. and the Group Insurance money be also ordered to be paid to the applicant.
- (h) One dependent of the deceased Official be given a suitable appointment in the Department as the official died while on duty.
- (i) Compensation of Rs.10,000/- on account of injustice done to the official and abatement of his mental worries and subsequent death of the official by the reluctance and apathy of the Departmental Officials resulting in permanent suffering of the official and his family be also paid to the applicant.

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(j) An interest @ Bank rate on the amount due from the date it became due to the date of final payment be also kindly paid to the applicant.

(k) The cost of the application and special cost be also paid to the applicant.

Roughly the total amount due to the applicant against the department comes to Rs.1,50,000-00 which may be confirmed by actual calculation from the record available with the Respondents and the amount so determined be treated as the amount claimed.

(l) An amount of Rs.1,500/- as cost of correspondence incurred by the official in pursuing his case and Rs.50/- as cost of the Notice be also paid to the applicant."

6. The following order was passed in O.A. No. 598 of 1986:-

"In the facts and circumstances of the case, we are of the opinion that in the interest of justice, the Respondents should pay the applicant a lump sum amount of Rs.15000/- in full and final satisfaction of the claim towards arrears of pay and allowances for the period of forced absence between 13.11.67 and 06.9.74. We direct the respondents accordingly. We further direct that pecuniary benefits including gratuity and encashment of leave, Group Insurance and Provident Fund amount should be recalculated after taking into account also the service rendered between 1958 and 1967 and all payments admissible to the applicant under the rules be made good along with interest at prescribed rates, within a period of three months from the date of communication of this order."

7. = In review no.128 of 1989, the following order was passed by the Bench; -

"The intention of the Tribunal was not to deprive the applicant of the retirement benefits which would have accrued to the deceased official during the

said period but for his forced absence. We, therefore, clarify that the period between 16.4.88 and 06.9.74 should also be counted in reckoning the pensionary benefits and gratuity etc. payable to the applicant."

8. On perusal of the reliefs claimed in O.A. No.598 of 1986 and the present O.A., it is clear that the applicant has claimed Rs.1 Lakh on account of compensation due to death of Shri R.C.S. Chauhan, unauthorised deduction of medical reimbursement bills, house allowance, cost of litigation and compensations are additional items claimed in the present O.A.

9. Shri R.C.S. Chauhan expired on 22.11.1985. Medical reimbursement bill were rejected in the year 1981, unauthorised deduction were made on 31.3.87, while the present O.A. has been filed on 15.9.92. The claim of the applicant that time begins to run from the date of decision of C.C.P., decided on 04.5.92 is not convincing one. Thus, the claim of the applicant is grossly barred by time.

10. In addition to it, it is worth mentioning that claim regarding compensation of Rs.1 Lakh due to death of Shri R.C.S. Chauhan is not a service matter as mentioned in para-3(Q) of Administrative Tribunal Act, 1985.

11. Order in O.A. No. 598 of 1986 specifically mention that "the respondent should pay to applicant a lump sum amount of Rs.15000/- in full and final satisfaction of the claim towards the arrears of pay and

allowances for the period of forced absence between 13.11.1967 to 06.9.74. We direct the respondents accordingly. We further direct that pecuniary benefits including gratuity and encashment of leave, group insurance and provident fund amount should be recalculated after taking into account also the service rendered between 1958 and 1967 and all payments admissible to the applicant under the rules be made good along with interest at prescribed rates, within a period of three months from the date of communication of this order.

12. Thus the whole claim of the applicant was decided in O.A. NO. 598 of 1986 and rest of the claim which is additional one, is barred by the limitation. The applicant is not entitle to agitate the said matter again on the principal of res judicata.

13. In the result, the O.A. is liable to be dismissed and is dismissed accordingly. Applicant shall bear the cost of the respondents amounting to Rs.650/- (legal practitioner fee Rs.500 plus other expenses Rs.150).

S. J. —

Member ( J )

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