

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 23rd day of May 2006.

Original Application No. 1207 of 2000.

Hon'ble Mr.K. B.S. Rajan, Member-J.

Kaushalendra Bahadur Pal, S/o late LalBahadur Pal,
Retired Postal Assistant R/o Village & Post Kudraha
(Kalwari), District Basti.

.....Applicant.

By Adv: Sri G.D. Misra

V E R S U S

1. Union of India through its Secretary Posts & Telegraph Department, New Delhi.
2. Supdt. Of Post offices, Basti Divsiion, Basti.
3. Post Master (General), Gorakhpur Region, Gorakhpur.

.....Respondents.

By Adv: Mr. S.C. Tripathi

O R D E R

BY K.B.S. RAJAN, MEMBER-J

The applicant retired as Postal Assistant on 31.12.1993. Earlier, applicant was placed under suspension by order dated 28.5.1993. However, the suspension order was revoked by order dated 16.6.1993. On 13.12.1993 the applicant fell ill and as such he could not join the duties w.e.f. 13.12.1993 to 31.12.1993. The applicant submitted applications on 13.12.1993 and 27.12.1993 alongwith the medical certificate claiming leave on medical

ground from 13.12.1993 till 31.12.1993. However, the respondent no.2 passed order on 13.1.1994 treating the period from 13.12.1993 to 31.12.1993 as dies-non. A Chargesheet dated 21.12.1993 was served upon the applicant on 8.3.1994. The Enquiry Officer appointed in pursuance of the Chargesheet dated 21.12.1993 conducted enquiry ex-parte and by order dated 21.5.1998 the President directed for dropping the proceedings against the applicant and consequently no action was taken in the disciplinary case against the applicant. By order dated 15.9.1998 the respondent no.2 passed order treating the period from 29.5.1993 to 18.6.1993 as spent on duty for all purposes and as such the applicant was paid full salary during suspension period. The respondent no.2 sanctioned the encashment of leave by order passed in December 1998, which the applicant received on 16.12.1998. The General Provident Fund Rs. 38122.00 was sanctioned to the applicant and the same was paid to the applicant in October 1994. By order dated 16.12.1998, DCRG amounting to Rs. 27060 was sanctioned which was paid to the applicant on 1.1.1999. Rs. 28619/- as commutation of pension was paid to the applicant on 19.2.1999. The applicant submitted two applications dated 13.7.1998 claiming salary from 29.5.1993 to 18.6.1993 with 20% interest and also the applicant claimed DCRG leave salary commutation of pension and full pension with interest equivalent to Kishan Vikas Patra in the

office of the respondent no.2. The retrial benefits as mentioned above was not paid to the applicant due to disciplinary proceedings which was ultimately dropped being illegal and not sustainable under law. On the facts and circumstances stated above, the applicant is entitled 20% interest on the amount of Gratuity from 1.1.1994 to 31.12.1998, 20% interest on the GPF for the period from 1.1.1994 to 30.9.1994, 20% simple interest on the amount of encashment of leave salary from 1.1.1994 to 30.11.1998 and 20% simple interest on the amount of commutation of pension for the period from 1.1.1994 to 31.1.1999.

2. The version of the respondents is as under:-

The Hon'ble President of India vide his letter dated 21.5.1998 the applicant was exonerated from all charges leveled against him and after the receiving of the decision of the President of India, all the dues which was withheld by the respondents due to the pendency of the disciplinary case were decided and paid to the applicant in time. Also the O.A. filed by the applicant is highly time barred and is liable to be dismissed.

3. Thus, interest on delayed payment is the main issue involved in this case.

4. Applicant was to superannuate on 31-12-1993. According to the applicant he was ill from 13-12-1993 till 27-12-1993 and was, however, permitted to superannuate by 31-12-1993. The afore said period of absence was covered by the applicant by way of medical certificate, but the authorities had ignored the same and treated the same as dies-non. Apart from the above, certain charge sheets were served on the applicant under Rule 9 of the CCS (Pension) Rules 1972 08-03-1994 and the same was later on fully dropped as the misconduct was not as such grave, vide order dated 21-05-1998. The applicant was later on released the amount of various terminal benefits as herein below:

- (a) Leave Encashment: 16-12-1998
- (b) General Provident Fund: October, 1994
- (c) DCR Gratuity 16-12-1998
- (d) Commutation of pension 19-2-1999

5. The applicant has also claimed salary for the period of absence which was fully covered by Medical certificate.

6. The respondents were directed by an order 17-11-2005 to produce relevant records relating to the submission of medical certificate and it was stipulated in the said order that in case of failure

to produce the records, adverse inference would be taken.

7. The records were not produced and on the date of hearing none was present on behalf of respondents.

8. The case was heard when the counsel for the applicant had made his submission. The Presidential order is no doubt dated 21-05-1998, while the applicant's retirement is as of 31-12-1993. When the entire penalty proceedings were dropped, and the applicant was made entitled to receive the terminal benefits, whether the payments should be incremented with interest on delayed payment is the question to be considered. The delay in payment is of course not thoroughly due to any administrative lapse as some disciplinary proceedings were pending. However, once the proceedings were dropped, there is no reason for non payment of the dues within a reasonable time. Then again, the question arises whether interest is to be paid from the beginning or from the date of decision to drop the proceedings. No rule has been laid down in this regard. In the case of *Baij Nath Gupta v. State of Bihar*, (1996) 10 SCC 297 it has been held, "If they find that the pension was not determined to the appellant in accordance with the rules on account of any laches or grounds on the part of the appellant, the

appellant obviously would not be entitled for payment of interest for the delayed payment of pension. On the other hand, if the Government was responsible for the delay, necessarily the appellant would be entitled to the payment of interest on the delayed payment." Following the same, in this case, the applicant is entitled to the terminal benefits and with interest as the delay in completion of disciplinary proceedings is not attributable to the applicant. In any event, here what is to be seen is that certain payments are independent of disciplinary proceedings. For example, payment of GPF credit. While the applicant retired in December, 1993, payment of GP Fund was made as late as October, 1994, i.e. after a lapse of more than 9 months. Interest is accrued on the GP Fund all through. Hence, interest at the prevailing rate of interest for the period from 01-01-1994 till the date of payment. This cannot be avoided.

9. As held in the case of **Vijay L. Mehrotra v. State of U.P., (2001) 9 SCC 687**, "In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement." As such, as regards other payments, as the proceedings were completed in May, 1998,

interest is payable from 01-06-1998 till the date of payment (16-12-1998) of DCR Gratuity and leave encashment. However, no interest is payable for commutation as the same is in lieu of a portion of pension, which was made available to the applicant.

10. Now the question of rate of interest. As held by the Apex Court in **Clariant International Ltd. v. Securities & Exchange Board of India, (2004) 8 SCC 524** Rate of interest should be a reasonable one as the same became payable for the delay in making the payment, subject of course to the statutory provision contained in the Regulations. While statutory rules provide for interest in respect of GP Fund, for other payments, a reasonable rate of interest is appropriate. Interest @ 12% on delayed payment of leave encashment awarded by the Single Bench of a High Court was upheld by the Apex Court vide judgment in the case of **Shashi Lata Verma v. State of Bihar, (2005) 12 SCC 197**. The same rate would, thus be justified as the decision of the Apex Court is of latest period and the interest awarded also relates to 2003.

11. In view of the above, the OA is disposed of with a direction to the respondents to pay interest as under:-



- (a) On the GP Fund for the period from 01-1-1994 till Oct. 1994 at the rates that prevailed during the said period.
- (b) On Leave encashment and DCR Gratuity @ 12% per annum for the period from 01-06-1998 till the date of payment i.e. 16-12-1998.
- (c) For commutation of payment - Nil.

12. The above payment shall be made within a period of eight weeks of communication of this order.

13. The applicant is by now a septuagenarian and the extent of anxiety in his mind could well be imagined. He would have incurred expenses in prosecuting this OA. As such, he deserves cost, which is quantified at Rs. 2,500/-. This shall also be paid within the above stipulated period.



MEMBER-J

/pc/