

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 20th day of MAY 2005.

Original Application No. 868 of 2002.

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

K.G. Saxena, S/o Sri A.P. Saxena,
R/o 117/576 Pandu Nagar,
KANPUR NAGAR.

....Applicant

By Adv: Sri R.M. Shukla

V E R S U S

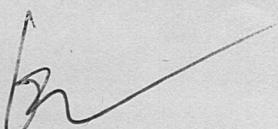
1. Union of India through Director General,
Employees Estate Insurance Corporation,
Panch Deep Bhawan, Okhla Road,
NEW DELHI.
2. The Joint Director (Finance), E.S.I.Corporation
Panch Deep Bhawan, Okhla Road,
NEW DELHI.
3. The Deputy Director (Finance)
E.S.I. Corporation Panch Deep Bhawan,
Sardodaya Nagar,
KANPUR NAGAR.
4. The Regional Director,
Employees Estate Insurance Corporation,
Panch Deep Bhawan, Sardodaya Nagar,
KANPUR NAGAR.
5. Sri K.N. Mishra the then Regional Director,
E.S.I. Corporation Panch Deep Bhawan,
Jawahar Lal Nehru Marg Patna.
Now posted at E.S.I. Corporation Panch Deep
Bhawan, Nand Nagar,
INDORE. (MP).

....Respondents

By Adv: Sri P. K. Pandey

O R D E R

The applicant retired from service on 31-01-1997 and according to him there had been inordinate delay in payment of the terminal benefits,



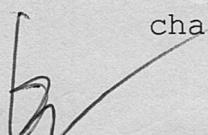
consequent to which he has claimed interest on delayed payment as under:-

"Issue a writ order or direction in the nature of a writ of mandamus commanding the respondents to pay balance amount and interest at the rate of 18% per annum on the paid amount of Gratuity Rs. 1,21,400 from 1.2.1997 to 28.1.2001 Rs. 545/- as interest on GIS amount paid Rs. 6050 from 1.4.1997 to 30.9.97 Rs. 3100 as interest on arrears of New Pay scale of Rs. 22982/- from 16.10.1997 to 15.7.98, Rs. 5486 as interest on paid amount Rs. 24,699/- as arrears of pension upto 15.12.98 Rs. 1,90,488 on the paid commuted amount of pension Rs. 252321 from 1.2.97 to 10.4.2001, Rs. 1000 alongwith interest Rs. 825/- from 1.2.1997 to 31.5.2001 Rs. 17,460/- as interest on paid amount of Rs. 38775/- from 1.6.94 to 30.11.1996 and Rs. 576 as interest on Rs. 3222/- paid as GSISS from 1.4.92 to 31.3.1993 all totaling Rs. 4,14,880/- in all be issued against the respondent."

2. He has also prayed for quashing of order dated 26-04-2001 whereby his request for refund of recovery of Rs 23,000/- for use of the accommodation was rejected and prayed for a direction to the respondent for payment of the same.

3. Prayer has also been made for re-fixation of his pay during 1993-94 in the scale of Rs 3,000 - 4,500/-

4. Brief facts: The applicant at the material point of time was functioning in ESI and was subjected to a charge sheet issued on the penultimate day of his service career, i.e. on 30-01-1997 charging him for having claimed a false medical claim of Rs 45.60. The above issue of charge sheet resulted in withholding of certain



terminal benefits due immediately after his superannuation on 31-01-1997. The I.O. rendered his report as per which the charge was "partly proved" and by an order dated 10-10-2000 the disciplinary authority, taking into account all aspects, took a lenient view as the applicant had already superannuated and instead of effecting any cut in pension, had only expressed his displeasure. It was thereafter the withheld terminal benefits had been made available to the applicant.

5. The respondents have contested the OA. Their preliminary attack is about the delay in filing the OA, coupled with the contention that no cause of action had taken place within the territorial jurisdiction of this Bench. As regards merit of the matter the respondents contended that since the disciplinary proceedings were pending, there was no question of payment of the terminal benefits immediately after retirement and within a reasonable time the amounts were released. As far as recovery of Rs 23,000/- is concerned, the respondents have stated that the applicant was duly informed of the details of the same and this amount cannot be refunded to the applicant.

6. On the date of hearing the applicant was not present either in person or through representative and the case proceeded in accordance with the provisions of Rule 15(1) of the CAT (Procedure) Rules, 1987. The counsel for the respondents was

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present and presented the version of the Respondents.

The grounds in support of the application are-

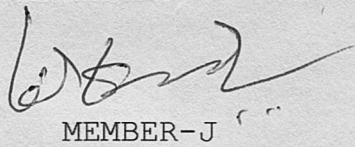
- (a) that in so far as recovery on account of holding of accommodation is concerned, only Rs 2/- per day was to be charged, while the amount charged was Rs 25/- per day.
- (b) There has been inordinate delay in payment of the dues.
- (c) The entire action has been accentuated by arbitrariness.

7. I have considered the entire pleadings. Order dated 30-01-1997 relates to charging of penal rent for the camp accommodation which has not been challenged by the applicant. In the said order, the displeasure of the DG has also been communicated. If at all the applicant had any grievance over this issue, he ought to have agitated then and there. Limitation is staring against the applicant in this regard. Thus, this part of the OA cannot survive.

8. As regards delay in payment of dues, there is full justification inasmuch as the applicant was under cloud and the disciplinary proceedings came to an end only in October, 2000. The applicant has not proceeded further departmentally against the same. Once some penalty has been imposed, the same justified the non release of the payment of terminal benefits. Hence, the applicant cannot succeed in this score also.

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9. In view of the above, the OA is devoid of merits and is dismissed and under the circumstances, no order as to costs.



MEMBER-J

GIRISH/-