

Reserved on 27.02.2012

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE ^{6th} ----- of **March, 2012**)

Hon'ble Mr. Shashi Prakash, Member (A)

Original Application No. 826 of 2006
(U/S 19, Administrative Tribunal Act, 1985)

Hari Om Upadhyaya, aged about 70 years, S/o Late S.S.L. Upadhyaya, Residents of Flat No. F-1, Banganga Apartment 35, K-Block, Kidwai Nagar, Kanpur Nagar, Retired as Ordnance Officer (Civil Line), C.O.D., Ministry of Defence, Kanpur.

..... *Applicant*

Present for Applicant : Shri M. K. Upadhyaya.

Versus

1. Union of India through Defence Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Director General of Ordnance Services, M G O's Branch, Army Head Quarters, DHQ P O, New Delhi - 110011.
3. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.
4. The Area Accounts Officer, Office of the A A O (Central Command), Cantt., Kanpur.
5. The Commandant, C.O.D., Kanpur.

..... *Respondents*

Present for Respondents : Shri R. K. Tiwari.

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ORDER

(Delivered by Mr. Shashi Prakash, Member (A))

This OA has been filed for payment of 18% interest on the delayed payment of terminal benefits namely leave encashment and CGEIS.

2. The brief facts of the case are that the applicant who was serving as a Civilian School Master in COD, Kanpur, retired on 31.10.1995 on attaining the age of superannuation. After retirement of the applicant post retiral benefits as admissible to him were not paid for a long time. Being aggrieved by the action of the respondents, the applicant filed an OA No. 618/1996 in this Tribunal. The Tribunal by its order dated 28, November, 2001 held that there was no reason to withhold the terminal benefits due to the applicant and the respondents were directed to pay the said benefits along with interest of 18%.

3. Consequent to the above order of the Tribunal, the respondents paid the amount due on account of gratuity and arrears of pension on different dates. Arrears of Pension was paid to him on 17.12.1997, gratuity on 09.7.2005, CGEIS claim on 12.1.2005 and leave encashment on 12.1.2007. As no interest had been paid on account of delay of the payment of these dues, the applicant made several representations to the respondents but to no avail.

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4. In the circumstances the applicant had no option but to file the present OA. Sri M. K. Upadhyay, counsel for the applicant has submitted that since the applicant had retired from service on 31.10.1995, the respondents were required to clear the retiral and other dues on the applicant within a period of three months and since the delayed payment was made of all the dues he was entitled to payment of 18% interest on the same.

5. Learned counsel further informed that while an interest of 18% has been paid on the arrears of the pension and gratuity but no interest has been paid on the delayed payment of leave encashment and CGEIS. He argued that since encashment of leave and CGEIS are also payable immediately after retirement they are also required to be paid within a reasonable period. In terms of the order of the CAT, Allahabad, the respondents are duty bound to pay interest on the delayed payment of these two dues also.

6. Sri R. C. Tiwari, counsel for the respondents stated that the applicant has been already paid 18% interest on the retiral benefits i.e. arrears of pension and gratuity amounting to Rs. 1,40,734/-. He further submitted that so far interest of leave encashment and CGEIS is concerned he drew the attention to Para 2 (f) of the OM issued by Ministry of Personnel, Public Grievances and Pension vide their letter dated 05.10.1999 clarifying that encashment of leave is a benefit granted under leave rules and not a pensionary benefit and so far as payment of CGEIS is concerned under Para 2(g) of the same OM clarifying that it cannot be termed as terminal benefit and therefore, no interest is payable on this claim.

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7. In view of this facts, the respondents have complied with the order of the OA 618/1996 as they have already paid interest of 18% on the post retiral benefit. In regard to the payment of interest of leave encashment and CGEIS in terms of the office OM issued by the Government of India the applicant is not entitled for the same.

8. Heard both the counsel for the parties. While it is a fact that the post retiral benefits are mainly pension and gratuity but the payment of leave encashment and CGEIS are also required to be paid immediately after the superannuation of the concerned employee. In this case it is admitted that there is a lapse of about 8 years for payment of these two dues to the applicant.

9. In this regard, it would be relevant to refer to the decision of the Hon'ble Apex Court in the case of **Shashi Lata Verma Vs. State of Bihar and others, (2005) 12 Supreme Court Cases 197**, wherein it has been clearly held that the appellant would be entitled to interest @ 12% interest per annum on the delayed payment of amount of leave encashment.

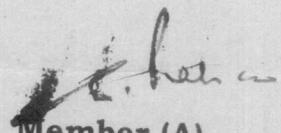
10. Having regard to this judgment of the Apex Court, the applicant is entitled for payment of interest on the delayed payment of leave encashment. Since, there has been a delay also in the matter of payment of CGEIS, the applicant would also be entitled for payment of interest on the amount regarding CGEIS also.

11. Accordingly the respondents are directed that for the period from the date of retirement till the actual date of payment of dues

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relating to leave encashment and CGEIS, the applicant is to be paid 12% interest per annum.

12. Accordingly, OA is allowed. No costs.


Member (A)

Shashi