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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 132 of 1992

Date of Decision: 23.6.1994

Bairagi Charan Patnaik

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunals or not ?

VICE-CHAIRMAN

MEMBER (ADMINISTRATIVE)

JUN 94

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Respondents

For the applicant

M/s. Devanand Misra
Deepak Misra
A. Deo, B.S. Tripathy
P. Panda, Advocates

For the respondents

Mr. Aswini Kumar Mishra
Standing Council (Central)

C O R A M:

THE HONOURABLE MR. K. P. Acharya, VICE - CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADEN)

JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : This application has a direct link with the judgment delivered by this Bench on 12th May, 1989, in O.A. 169/88. The applicant had been awarded the following reliefs on that occasion:

- 1.1. Payment of interest @ 12% per annum from 1.12.1987 to the actual date of payment of gratuity; and
- 1.2. Payment of interest at the same rate on pension from 1.10.1987 till the date of actual payment of arrears thereof.

2. The grievance of the petitioner in the present application is three-fold, viz., –

- a) Non-payment of difference in the arrears of pension from 1.10.86 to 31.3.88 @ Rs.116 per month as well as of Pension Relief at varying percentages granted to pensioners from time to time;

b) Non-providing of any opportunity to him to "inspect" the calculations made by the respondents;

c) Failure to pay him the commuted value of pension immediately after retirement and delaying such payment till 8.2.1988.

3. The applicant prays for a direction to be issued to the respondents to pay him -

i) the arrears of pension and pension relief from 1.10.86 to 31.3.88 plus interest @ 12% thereon;

ii) interest on gratuity @ 12% from 1.10.86 to 30.11.87; and

iii) interest @ 12% on pension and its commuted value from the day following his retirement, viz., 1.10.86 to the date(s) of actual payment

4. The applicant, Shri Bairagi Charan Patnaik, Head Assistant General/Office Superintendent in the Office of the Chief Post-master General, Orissa Circle, retired from service on 30.9.86. Roughly four months prior to the retirement, certain disciplinary proceedings were initiated against him, only to be dropped eventually on 8.2.88. Additionally, a penal rent @ Rs.950/- per month was also levied on him for his unauthorised occupation of departmental accommodation from 1.6.87 to 6.11.87. In disposing of the case, this Bench issued the directions mentioned in Para 1.1 and 1.2 above. Additionally, the penal rent imposed on him was also directed to be reduced from Rs.950/- to Rs.416/-.

5. The respondents submit that a sum of Rs.1350/- was duly paid to the applicant towards the interest at 12% on the delayed payment of gratuity. Similarly, Rs.3/- and Rs.18/-

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were paid to him towards short payments of pension and interest thereon, respectively. However, the respondents state that the applicant was paid Rs.81/- in excess of his pension relief entitlement. They have annexed detailed calculation sheets in support of these payments.

6. As regards payment of interest on commutation of pension the respondents point out that he was eligible to opt for the commutation of pension only on the 'conclusion' of the disciplinary proceedings against him on 8.2.88 and the same was accordingly paid. They add that as he was drawing his provisional/full pension till the date of payment of the commuted value of the pension, he had not been put to any monetary loss. They make a distinction between pension and commuted value of pension and maintain that they are not inclusive of each other but distinct from one another.

7. In short, the respondents maintain that the applicant has received all the due amounts, and also those as directed by this Bench to be paid to him, and that he is not really entitled to anything more.

8. The present application is largely an outcome of the implementation, or part-or non-implementation, of the directions issued in the earlier Original Application. There are no legal issues to be resolved and no concepts to be dilated upon. The issues, such as they are, essentially pertain to detailed calculations and sundry claims in relation to certain dates as projected by the contending parties.

We feel that this task is best left to the parties themselves without in any way involving ourselves, for we are not

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seriously expected to bend our attention to miscellaneous arithematical calculations merely in order to prove the correctness or otherwise of rival claims.

9. It will also be noted that the directions already issued by this Bench in the earlier original application are clear and unambiguous and do not in any way need any elaboration or clarification. We direct, therefore, that the applicant shall submit a fresh, comprehensive representation to the Deputy Director of Postal Accounts, Orissa Circle, with a copy to the Chief Post-master General, detailing his claims and the bases thereof. This will be done within fifteen days of the receipt by the applicant of a copy of this judgment. The said representation shall be examined by both recipients within fifteen days of its receipt in their respective offices. A date shall be fixed by the Chief Post-master General within 30 days from the date of submission of the representation by the applicant for a discussion in the Office of the Deputy Director Accounts (Postal) giving a clear four-day notice to the applicant. On the appointed day, the officer dealing with the case in the office of the Chief Post-master General, viz., Asstt. Postmaster-General/Asstt. Director (Accounts), the officer/official dealing with the case in the Postal Accounts Office, and the applicant shall meet in the latter office at Cuttack. The claims shall be scrutinised by both sides and final position arrived at on the basis of discussions, rules and records. Finally, the case shall be brought to a close by the Chief Postmaster General by the issue of a final reply to the applicant within one week

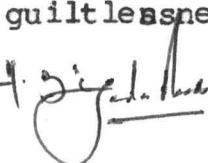
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of the discussions held as directed above.

10. We now address the only question which needs some scrutiny and determining: whether the applicant is entitled to any interest on the delayed payment of commutation of his pension. The applicant asserts that the term pension is inclusive of commutation as well. The respondents maintain that both are distinct and different from one another.

11. The question as to whether or not pension and its commuted value are inclusive or exclusive of one another is, to our mind, largely academic and need not detain us needlessly at this stage. What is more relevant is the set of circumstances pertaining to this aspect in the present case.

12. The applicant retired on 30.9.1986. In normal circumstances he was eligible and entitled to apply for the commutation of a part of his pension no sooner than he retired. The circumstances were, however, far from normal around the time of his retirement as he was facing a disciplinary case, which continued well beyond the event. And he could not have applied for commutation of pension at that juncture of time. But then, - for sound and good reason, one expects, - the charges against the applicant were dropped altogether thereby releasing him from all stigma or stain that may have attached during the pendency of the case started against him. It is, therefore, logical to infer that the resultant guiltlessness goes right back to the date of initiation



12 of the said proceedings, and also that he was totally blameless when he retired, and, *ipsofacto*, fully entitled to opt for the commutation of pension. However, the commutation was sanctioned only after the formal closure of the case against him on 8.2.1988. In other words, he was prevented from availing of an ordinary facility available to all retired employees due to no fault of his. To that extent and viewed from this specific perspective, he stood deprived of the *enjoyment* of his normal entitlements for a period of time without justification. The argument advanced by the respondents that, inasmuch as he was drawing full pension he was not actually put to any monetary loss, is flawed and unreasonable. We, hold that the applicant is entitled to interest on the commuted value of pension from 1.10.1986 viz., from the day after his retirement to 8.2.1988, i.e. the date on which the commutation was *actually* disbursed to him. And in keeping with the reasons and norms already adduced or evolved in the earlier original application, we determine the rate of interest to be at 12% in this respect as well. We hence direct that he shall be paid interest at the rate indicated from 1.10.1986 to 8.2.1988 after deducting or adjusting from such amount the difference of the pension actually drawn by him during the same period and the reduced pension that was actually due to him on account of ^{also} commutation. This part of payment may be precisely calculated and paid within the time indicated

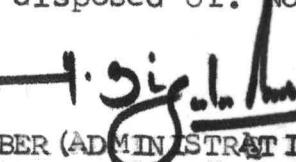
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thereof
in para 9 above and the details be disclosed
to the applicant and discussed during the meeting
mentioned in para 9 above.

Thus the application is disposed of. No costs.


VICE-CHAIRMAN

23.6.94


MEMBER (ADMINISTRATIVE)

23 JUN 94

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 23rd June 1994/ B.K.Sahoo