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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.180 OF 1996
Cuttack, this the 18th day of November, 1997

Miss Subhra Bose

Applicant

Vrs.

Union of India & others

Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

Somnath Som,

(SOMNATH SOM)
VICE-CHAIRMAN

18.11.97

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.180 OF 1996
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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Miss Subhra Bose, aged about 60 years,
d/o late S.C.Bose, at present
C/o Sandeep Pattanaik, Advocate,
Lingaraj Temple Road,
Old Town Bhubaneswar-11,
Retired Deputy Superintending Archaeologist,
Archaeological Survey of India,
Bhubaneswar Circle,
Bhubaneswar Applicant.

Vrs.

1. Union of India,
represented through the Secretary,
Department of Culture, Ministry of
Human Resources and Development, Shastri Bhawan,
New Delhi.
 2. Director General,
Archaeological Survey of India,
Janpath, New Delhi-110 011.
 3. Superintending Archaeologist,
Archaeological Survey of India,
Bhubaneswar Circle, Old Town,
District-Khurda, Pin-751 002.
 4. Pay & Accounts Officer,
Archaeological Survey of India,
Janpath,
New Delhi-110 011.... Respondents
- Advocates for applicant - M/s. B.Nayak &
A.K.Dora.
Advocate for respondents - Mr.S.C.Samantray, A.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of
Administrative Tribunals Act, 1985, the applicant has prayed

for penal interest at the rate of 18% per annum for delayed payment of retirement dues as detailed in Annexure-A/6.

Facts of this case fall within a small compass and can be briefly stated.

2. The applicant retired as Deputy Superintending Archaeologist on superannuation on 30.11.1993. She did not get her terminal benefits and approached respondent no.2, the Director General, Archaeological Survey of India, who directed respondent no.3 to make payment of the various dues within ten days and intimate reasons for delay. This instruction is conveyed in a Telex to respondent no.3 which is at Annexure-A/2. Thereafter, on further pursuing the matter and submission of several representations, the amounts due to her have been paid as per details given in Annexure-A/6. The case of the applicant is that there has been delay of more than two months in payment of various dues to her after superannuation on 30.11.1993 and therefore, she has claimed interest at the rate of 18% per annum for the period beyond two months, i.e. beyond 31.1.1994.

3. Respondents in their counter have pointed out that according to them, all steps were taken diligently for making payments of the terminal benefits to the applicant and accordingly, payments have been made. Respondents have not disputed the assertions of the applicant about the various dates on which different payments have been made to

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her. Respondents have filed a note at the time of hearing in which they have submitted that the office of respondent no.3 is working with shortage of staff and some inadvertent delay has been caused for which no interest is legally payable.

4. The applicant has filed a rejoinder in which she has asserted that the delay is because of the negligence of respondent no.3 and therefore, payment of interest for the delay should be allowed.

5. I have heard the learned lawyer for the applicant and the learned Additional Standing Counsel, Shri S.C.Samantray, appearing on behalf of the respondents, and have also perused the records.

6. Learned lawyer for the applicant has relied on the decision of the Hon'ble Supreme Court in the case of State of Kerala and others v. M.Padmanabhan Nair, AIR 1985 SC 356, where the Hon'ble Apex Court have held that interest is payable where because of the lapses of the Department, L.P.C.had not been issued by the Department and therefore, could not be produced by the retired employee and because of this, payments were delayed. In that case, the delay was of the order of two years and three months. Hon'ble Supreme Court held that there was no reason why L.P.C. could not be issued at least a week before the date of retirement which was known beforehand and liability to pay penal interest on

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the dues should commence at the expiry of two months from the date of retirement.

7. Before proceeding in the matter further, it is to be noted that for getting the terminal benefits, there is a liability on the retiring employee also, i.e. of submission of pension papers. The retiring employee has to submit his photograph and in case, the spouse of the retiring employee is living and is entitled to family pension, the retiring employee has to submit a joint photograph. For commutation of pension the retiring employee has to give an option in writing. All these documents are required to be submitted by the retiring employee two years before the date of retirement. Rule 58 of Central Civil Services (Pension) Rules, 1972 deals with preparation of pension papers and this is quoted below:

"58. Preparation of pension papers:

Every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government servant is due to retire on superannuation, or on the date on which he proceeds on leave preparatory to retirement whichever is earlier."

From this, it is clear that the retiring employee has to submit the pension papers at least two years before the retirement. But as a matter of fact, this is done only very rarely if at all and later on, the retiring employee comes up

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with the grievance that payment of terminal benefits has been delayed even when part of the delay is accounted for by his late submission of pension papers. In the instant case, the applicant retired on 30.11.1993 and at the time of hearing, it was submitted by the learned lawyer for the applicant that the pension papers were submitted by her only in September 1993, i.e. two months before her superannuation.

8. In the above context, one has to examine the dates on which different payments have been made to her and if there has been any avoidable delay for which the applicant is entitled to interest. In the rejoinder, the applicant has pointed out that pension has been sanctioned to her on 9.1.1994 within two months and therefore, no claim of interest has been made with regard to pension. From Annexure-A/6 it appears that an amount of Rs.75,061/- was paid to her towards commutation of pension, Rs.58,200/- towards D.C.R.G. and Rs.57,560/- towards leave salary. These three payments were made on 30.3.1994, i.e. within four months from the date of superannuation. Thus, in respect of these payments, it cannot be held that there has been unreasonable delay which would entitle the applicant to get interest at 18% per annum on these amounts. In view of this, the claim of interest on these three amounts is held to be without any merit and is rejected.

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9. The next item is provident fund amount of Rs.36,064/- which was paid to her on 24.5.1994. For payment of G.P.F. amount at the credit of the applicant, he has to submit an application for final withdrawal from G.P.F. In the O.A., the applicant has not mentioned as to when she submitted the application for final withdrawal. In view of this, it cannot be held that there has been substantial delay in payment of the G.P.F. amount to her requiring payment of interest. This claim is, therefore, rejected.

10. The next two claims are payment of Rs.13,744/- towards C.G.E.G.I.S. paid to her on 17.10.1994 and Rs.11,840/- towards additional D.C.R.G. paid to her in June 1995 (exact date not mentioned). In respect of these two items, it has to be stated that respondents in their counter have pointed out that it is only on 6.7.1994 that the applicant claimed the Group Insurance amount as also 20% more of D.C.R.G. The additional amount of D.C.R.G. became due to be paid on a circular issued by Government of India for calculation computing a portion of the D.A. towards of gratuity. The respondents have pointed out that the claim was made by the applicant only on 6.7.1994 and there was also some erroneous calculation made by her. This was got corrected and the payment of G.I.S. amount was made on 17.10.1994. From this, it appears that the G.I.S. amount was paid within three

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months of her making a claim and therefore, no interest is payable on this amount. The claim for additional D.C.R.G. arose subsequently and therefore, no interest is also payable on this amount.

11. The last item is Rs.1000/- which was deducted from her gratuity and paid to her in October 1995. The Rules provide that while paying the gratuity, Rs.1000/- should be invariably deducted towards unforeseen dues coming to light which are to be recovered from the applicant. Accordingly, this amount of Rs.1000/- was deducted while paying her the gratuity and this amount was paid in October 1995. This is the usual practice followed in respect of retired employees and no claim for interest can be said to have been made out on this amount.

12. In the result, therefore, it is held that the claim for payment of interest on the various items mentioned in Annexure-A/6 is without any merit and the same is rejected. The Original Application is accordingly rejected. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 18/11/97

AN/PS