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O.A. No.317/07

ORDER DATED 4th AUGUST, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

The applicant in this Original Application challenges Annexure-A/5 on the ground that the Respondent-authorities have charged interest and penal interest for the money which he had received towards retiral benefits consequent upon his compulsory retirement.

2. The question that now arises before this Tribunal is whether the Respondents are justified in charging interest and penal interest amounting to Rs.2,40,768/- on the amount of Rs.2,66,333/- which he had received by way of his retiral benefits when he was ordered to retire compulsorily from service or not?

3. Short facts which have led to filing of this Original Application are as follows. While the applicant was working as Postal Assistant under the Respondents, he faced a disciplinary proceedings which culminated in imposition of punishment by the disciplinary authority and the said punishment was enhanced by the appellate authority to that of compulsory retirement as suo motu review. Resultantly, he was compulsorily retired w.e.f. 03.04.2000 and paid all his retiral benefits. On a revision petition being preferred by the applicant, the revisional authority set aside the punishment of

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compulsory retirement awarded by the appellate authority and restored the punishment as awarded by the disciplinary authority. Challenging the order passed by the revisional authority regarding payment of pay and allowances during the period when the applicant was out of service because of the compulsory retirement and claiming payment of T.A for joining his duty on reinstatement, the applicant approached this Tribunal by filing 02 Original Applications, viz., O.A. No.254/05 and 233/06. On considering the grounds urged in both the O.As and on hearing the parties, and having considered rival contentions, the Tribunal directed as follows:

“ In the light of our analysis made above, we find no substantial force in the submissions made by the Respondents in their counter, notes of submission and argument advanced by Ld. ASC. Hence the order under Annexure-A/7 dt.03.11.04 to the extent of denying the applicant full benefits for the period from 03.04.2000 to 01.08.2002 is hereby quashed. The Respondents are directed to pay the full pay and allowances that he would have normally drawn had he not been compulsorily retired from service (minus the payment already made) within a period of 60 (sixty) days from the date of receipt of a copy of this order.”

4. As regards refund of retirement benefits which the applicant had received because of punishment of compulsory retirement from service and payment of T.A. claim, towards his journey from Bhawanipatna to Bolangir to join his

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duty on reinstatement, this Tribunal directed the 2nd Respondent, Director of Postal Service to take a final view in the matter within a period of 20 (Twenty) days from the date of receipt of a copy of the Tribunal's order. Subsequent to the above orders, the 2nd Respondent passed Annexure-A/5 order by which the applicant was ordered to remit Rs.2,66,333/- and this entire amount has been further ordered to be recovered with interest at G.P.F. rate, i.e., 11% per annum. Challenging the above order of charging interest at 11%, the present Original Application has been filed.

5. This Tribunal heard the Ld. Counsel for the parties and had perused the entire records produced along with the O.A. The main grounds urged by the applicant are that when he had been paid the retirement benefits after lapse of some time without any interest, the applicant has been asked to refund the same with interest at 11% per annum and that charging of interest at 11% per annum is unjust and against the principles of natural justice. The second ground urged in the O.A. is that if the entire amount, as ordered by the 2nd Respondent, is recovered he will not get any amount for his sustenance.

6. On considering the grounds urged in this O.A and the stands taken in the counter affidavit, this Tribunal finds that the applicant had kept an amount of Rs.2,00,000/- and odd received by him from the Department as retirement benefits consequent upon his compulsory retirement as a measure of

penalty imposed by the competent authority. The Counsel appearing for the Respondents submits that the applicant has kept the said amount for more than 8 years and he has to refund the same with interest at G.P.F. rate. When the O.A. was admitted, this Tribunal had passed an order on 19.09.07 ordering that an amount of Rs.3,000/- alone could be recovered from the applicant till the disposal of the application. On considering the entire facts and circumstances of the case and the fact that the recovery was ordered as per the direction issued by this Tribunal, it is held that the applicant is eligible to be charged with interest of at least 4 % per annum for the amount which he has to refund in installments, as ordered by this Tribunal.

7. In the above circumstances, this O.A is disposed of by directing the Respondents to recover the entire amount on collecting interest at the rate of 4% per annum and on collecting that interest the amount can be recovered in installments from the applicant from his monthly salary. With the above observation and direction, this O.A is disposed of accordingly. The appropriate order in the matter has to be passed by the authorities as early as possible, at any rate within 45 days from the date of receipt of the copy of this order.

Kappan
(K. THANKAPPAN)
MEMBER (J)